Unemployment Insurance Review

June 1964

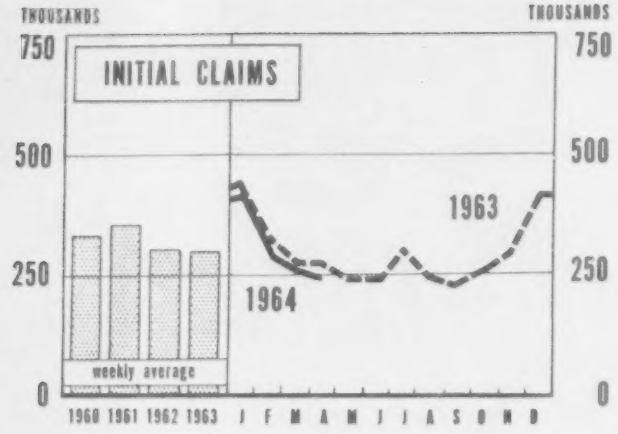
Adjudicating Appeals for UI Benefits

Quality Control in Nonmonetary Determinations
Processing Mass Appeals in Michigan
Adjudication Process at Appeal Board Level
Appeal Board's Training Program in California
Court Review of Administrative Decisions

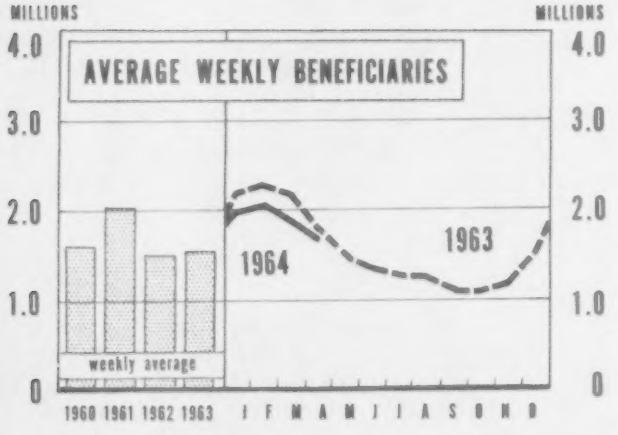
UNITED STATES DEPARTMENT OF LABOR MANPOWER ADMINISTRATION

UNEMPLOYMENT INSURANCE ACTIVITIES

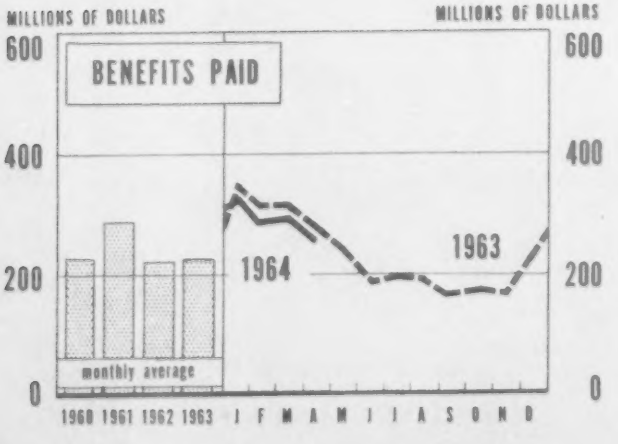
UNDER STATE PROGRAMS



Initial claims, at a weekly average of 246,000 in April, were 5 percent below the March average and 10 percent lower than a year earlier. The decline primarily reflected fewer layoffs in construction and other outdoor work as well as a pickup in the trade and services industry.



The number of unemployed workers receiving benefit payments under State unemployment insurance programs averaged 1.7 million per week in April, compared with weekly averages of 1.9 million in March and 1.8 million a year earlier.



Total benefits paid under State programs during April amounted to $258 million. This represented a drop of $35 million from March and was $17 million below the April 1963 amount.

Unemployment Insurance Review

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U.S. DEPARTMENT OF LABOR
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MANPOWER ADMINISTRATION
John C. Donovan, Administrator

BUREAU OF EMPLOYMENT SECURITY
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UNEMPLOYMENT INSURANCE SERVICE
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The UIS Director Comments

The articles in this issue of the *Review* effectively call attention to the importance and complexity of the administrative adjudication of unemployment insurance claims.

The adjudication process protects the interests of both the unemployed workers and the employers who pay the unemployment insurance taxes; it helps ensure that benefits are paid only to covered eligible workers during spells of unemployment; and it entails the practical application of underlying policies, and the interpretations of the law. "Issue" cases occur in such numbers as to put emphasis on efficiency in the procedures for their disposition, while meeting standards of fair play. Administrative adjudication in unemployment insurance challenges ingenuity in combining administrative effectiveness and fairness protected by all the democratic safeguards.

In any of its phases, from the initial determination in the local office through all of the available appeal processes, the goal of administrative adjudication in unemployment insurance is the prompt determination of the rights of a fellow citizen under the law. All levels of adjudication—the claims examiner, the referee, the board of review, and even the judge during a court review—are engaged in the same process. Each of them is concerned entirely with recognition of issues, factfinding, decision writing, and application of the law. They all have a common concern in arriving at a fair and prompt decision though there are differences in their functions and in their roles.

Fairness and promptness are the essence of administrative adjudication in unemployment insurance. Although issues must be resolved with an efficiency that assures prompt decisions, the process itself must not only be fair but its fairness must be evident to all. In fact, an essential part of fairness is promptness—prompt decisions and prompt payment of allowable benefits. Efforts to be thorough and fair, to provide all possible opportunity to reopen and examine issues, and where necessary to be liberal in allowing adjournments, should not run counter to efforts to be prompt.

Accurate factfinding and evaluation of the facts at the time a claim is filed are imperative; they help in the fair and speedy resolution of issues, and contribute to efficiency by eliminating the need for further explanations or reopened cases, and lessen the incidence of unnecessary redeterminations and appeals.

In addition to these, many other factors enter into the complex process of administrative adjudication. Factfinding and hearings should reflect impartiality but not a lack of concern for the people involved. Forms and decisions should be accurate and precise but should be written in an easily understood style. Decisions should be written with such clarity that they serve to explain a specific case and, at the same time, convey accurate information about the program.

Accomplishment of all these purposes requires highly competent and trained personnel. Knowledge of the law, occupations, industrial practices, human behavior, factfinding methods, social and industrial psychology, and the social sciences are but some of the essentials—whether acquired formally or by assimilation. Ability to communicate effectively orally and in writing, to obtain and evaluate facts, to reason logically, and to deal fairly and effectively with people are among the required skills.

Armed with a broad range of knowledge and equipped with a variety of skills, precedents, and other "tools," the adjudicator is the sharp focus of the entire process. This issue of the *Review* is devoted to the work of the thousands of adjudicators throughout the country who carry out this bed rock function day in and day out. Their task is hard and often thankless, but their decisions form the sinews and nerves of the unemployment insurance program.

Adjudicating Appeals for UI Benefits

The five articles that follow discuss the successive appellate steps in the administrative adjudication of disputed claims for unemployment insurance benefits, as well as training programs for personnel involved in the appeals process.

Quality Control in Nonmonetary Determinations

*Anna Zenkovich**

All personnel employed by the Arizona agency play an important part in achieving the objective of the unemployment insurance program—the payment of benefits to eligible claimants—but the adjustment deputy (in Arizona, the examiner designated to resolve disputed cases) has the main burden in the adjudication process. It is imperative that this "adjudication specialist," because of the scope and nature of his job, make every effort to combine quality with quantity in nonmonetary determinations.

In Arizona, the Unemployment Insurance agency and the Employment Service are separate and distinct entities. A decentralized nonmonetary process exists, with 16 local offices throughout the State making determinations based on the law, Commission policy, and regulations. Although this decentralization poses problems in achieving uniformity and quality in determinations, experience has shown that it contributes much in the way of:

1. Understanding claimant problems;
2. Obtaining all pertinent information so that the resulting determination is based on complete findings of fact;
3. Adjudicating claims promptly and thereby avoiding unnecessary financial hardship for the claimant; and
4. Writing the determination in language understood by the individual. Good public relations are furthered, and the filing of appeals solely because of misunderstanding is minimized.

To establish and maintain quality in the nonmonetary determination process, three steps, or areas, are involved: Training new deputies, providing basic guides and work tools, and supervision and review.

Training New Deputies

The first step the agency takes to assure quality control of nonmonetary determinations is to provide basic training for all new deputies (claims examiners). Supervisors instruct trainees in eligibility requirements under the unemployment insurance program, and the detailed steps involved in accepting and processing a claim are emphasized repeatedly—with thorough comprehension the ultimate goal. When the initial lecture-training has been completed, the trainee begins to work as a deputy. Training continues on the job with an experienced deputy beside him and the supervisor available for consultation. The new employee becomes familiar with all the basic requirements for determining a claimant's eligibility for benefit payments, and during assignments to new and continued claims operations he learns to recognize the issues that later he will be required to deal with in the adjudication process.

During initial training in basic claims functions and eligibility requirements, the work of the trainee is examined closely by his immediate supervisors, the assistant manager, and the manager. When the supervisory staff determines that the deputy has the required knowledge to understand and assimilate all details required in counter work, he then moves up to training in adjustment deputy work. A new cycle commences. He must now learn to conduct factfinding interviews and apply the law to the facts obtained.

*Unemployment Insurance Manager, Phoenix Industrial Office, Employment Security Commission of Arizona.

As the first step in this new training cycle, the adjustment deputy is given the *Adjustment Deputy Handbook* which contains a permanent source of the information necessary to perform this work. He is instructed in the use of factfinding guide cards. It is emphasized that these guides are required tools of the factfinding process and that all areas of questionable eligibility are to be explored during the adjustment interview. The local office adjustment deputy is taught that he is responsible for obtaining information regarding many factors which might affect claimant eligibility and that he could not possibly become proficient without such work tools to aid him. Before the deputy receives his first case to adjudicate, the local office supervisory staff ascertains that he knows how to identify the legal issues, gather all the essential facts, apply the law to those facts, and arrive at a conclusion based on the law.

The beginning adjustment deputy quickly learns his two-fold obligation: (1) to protect the interests of claimants and (2) to protect the interests of employers who pay the unemployment insurance taxes. For his first actual cases, complex and unfamiliar situations which might not fall within the scope of his training are avoided. He is generally assigned clear cut cases involving issues such as accrued leave pay, vacation pay, or attendance at school because it is of prime importance for the new deputy to have a sense of accomplishment upon completion of his first interview. Each case is reviewed and evaluated by the adjustment supervisor, is discussed with the deputy, and, if necessary, is returned for additional information and again reviewed.

After several weeks, depending on a deputy's progress on the job, he no longer receives selected single-issue cases, but assumes responsibility for complete handling of the factfinding process, independent of close supervision. The supervisor continues to evaluate cases and to return them for followup if the initial interviews did not result in facts on which a sound determination could be based. The trainee is referred to the Manual of Policy or Precedent Manual when he improperly applies the law to the facts obtained.

The adjustment deputy's training does not end when he is thoroughly familiar with current procedures and policies. Part of his job is to familiarize himself with changes and modifications in the law, regulations, and policies. Continual study is essential. In the Phoenix Industrial Office, Friday afternoons are set aside for such training. Policy and procedural changes are presented, discussed, and clarified. When a need for specific training becomes apparent, it is implemented as soon as possible, usually within the same week that the need is recognized.

ELIGIBILITY INVESTIGATION RECORD

NAME_____

S. S. NO._____

If no ESC-100, was this counted as a nonmonetary determination? Yes No

ISSUE:	VQ	DIS	CPR	ABLE	AVAIL	REF	AP	LD	REP REQ	VAC PAY	OTHER
CODE:	A	B	C	D	E	F	G	H	I	J	Z

I certify that I obtained the following information from the parties named.

Deputy's Signature_____ Date completed_____

LO	
PROGRAM	
NC	
AC	
CC	
REINS	

Findings of Fact:

ESC-98 (REV. 1-64) 50M

(Continue on Other Side)

Statewide training sessions are conducted throughout the year, and skilled supervisors provide instruction and clarification on subjects such as the Arizona Employment Security Law, the Manual of Policy, factfinding, and interviewing techniques. These statewide sessions are usually pointed toward obtaining uniformity of operations in all offices.

Various training methods have been employed in the statewide and local office training. These may include "role playing" (simulated cases with deputies taking part); practice in determination writing (to aid in phrasing of decisions); and presentation of particularly difficult or unusual cases which currently confront deputies (for analysis of issues and application of the law).

In the presentation of determination writing and case studies, we have employed several techniques. These include discussion of sample determinations and the use of slides to illustrate the difference between good and poor determinations.

As a result of both planned and impromptu training, the adjustment deputy becomes familiar with the very essence of the factfinding and determination process. He comes to know his work tools and how to utilize them. He is soon a competent and self-confident adjustment deputy.

In addition to the training given to the adjustment deputies and local office personnel, conferences for local and central office supervisory personnel provide guidance for both managers and supervisors. It is important that these supervisors employ the most suitable training techniques and be alert to current work requirements so that they may in turn maintain a properly trained staff.

Work Tools in Quality Control

The tools that the deputy uses provide an equally important second area through which the quality of work can be improved. In Arizona, these basic guides and work tools include:

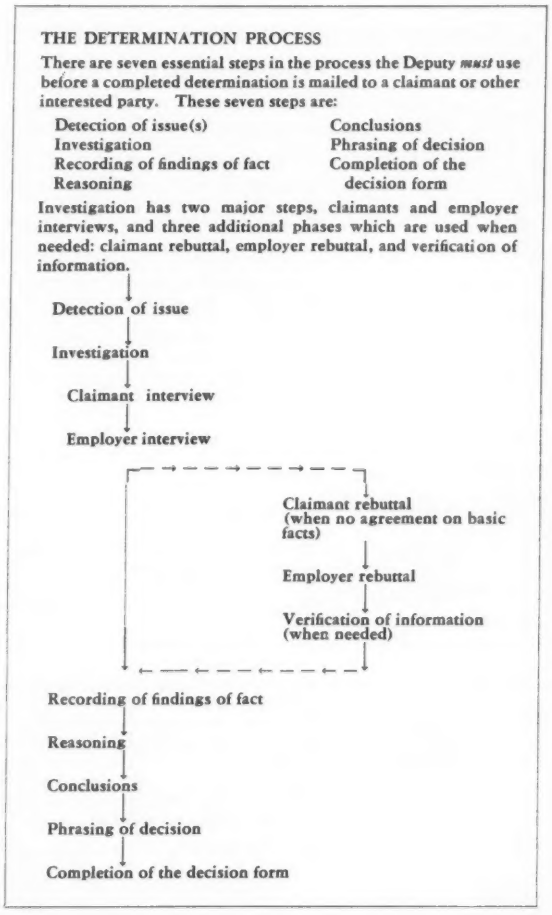
The Employment Security Law.—This law spells out the State's public policy and sets forth the basis and authority for administering the unemployment insurance program.

The Regulations.—These provisions help implement the law and have the full force and effect of the law. In many instances they are explanations of the intent of the law and are more easily understood by the deputy.

Manual of Policy.—The manual interprets the Arizona Employment Security Law and regulations, and gives the adjustment deputy examples of the law's application to various types of cases. It provides reasoning which may be used in explaining the law's application to a specific case. Diligent use and study of the policy are encouraged, since the Manual is modified continuously to meet new situations.

Precedent Manual.—(Maintained in the office library, not on deputy's desk.) This manual is a compilation of decisions resulting from appeal cases. These cases further illustrate the manner in which policy has been applied to particular cases. In effect, precedent cases serve as examples to justify similar applications of policy in subsequent decisions.

Interviewing Guide Cards.—These cards, as noted previously, are used in training and as a daily operating tool during factfinding interviews.


THE DETERMINATION PROCESS
There are seven essential steps in the process the Deputy must use before a completed determination is mailed to a claimant or other interested party. These seven steps are:
Detection of issue(s)
Investigation
Recording of findings of fact
Reasoning
Conclusions
Phrasing of decision
Completion of the decision form
Investigation has two major steps, claimants and employer interviews, and three additional phases which are used when needed: claimant rebuttal, employer rebuttal, and verification of information.
Detection of issue
Investigation
Claimant interview
Employer interview
Claimant rebuttal (when no agreement on basic facts)
Employer rebuttal
Verification of information (when needed)
Recording of findings of fact
Reasoning
Conclusions
Phrasing of decision
Completion of the decision form

Deputy .....
Date .....
Issue .....
Observer .....

EVALUATION OF INTERVIEWING TECHNIQUES

U–Unsatisfactory
F–Fair
A–Average
AA–Above Average
E–Excellent

		U	F	A	AA	E	Comments
Approach	1. Reflects courteous, friendly interest in the claimant and his problems.						
	2. Promptly places claimant at ease.						
	3. Has an efficient businesslike attitude.						
Beginning the Interview	1. Determines if issue exists.						
	2. Recognizes specific issues as such.						
	3. Selects basic issues from two or more potential issues.						
	4. Does not deviate from issue to be resolved.						
Individuality of Cases	1. Recognizes individual differences in claimants.						
	2. Recognizes specific facts involved in issue.						
	3. Recognizes need for additional evidence.						
Questioning Methods	1. Avoids a cross-examination attitude.						
	2. Acquaints the claimant with all issues and facts.						
	3. Avoids repetitive questions.						
	4. Uses language understandable to claimant.						
	5. Asks clear, concise, and direct questions.						
Controlling the Interview	1. Prevents and controls rambling conversation of claimant.						
	2. Deals effectively with emotional stress.						
Closing the Interview	1. Closes interview in a courteous and tactful manner.						
	2. Claimant is informed of action to be taken.						
	3. Claimant is informed as to recourse through right of appeal.						

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Adjustment Deputy Manual.—This manual provides the deputy with a permanent source of the basic information necessary to perform his work. The manual elaborates on the adjustment deputy's administrative responsibilities and the nature of his duties. It supplies information on interviewing techniques. It illustrates factfinding and recording methods and it covers the preparation of determinations with examples encompassing various types of issues.

Other sources of information available to the deputy are: *Prevailing Wage Handbook* (providing wages of most commonly occurring occupations in a given area); *Labor Laws of the State of Arizona; Benefit Series Service;* and the *Unemployment Insurance Review's* monthly article, "Issues Reflected in Recent Appeals Decisions."

A record of each investigation and determination is necessary if quality and uniformity are to be measured. An Eligibility Investigation Record is used to record statements obtained during the factfinding process. This contains a complete record of the deputy's investigation, his reasoning in arriving at a determination, and his determination. In all cases, to assure accuracy and thoroughness, statements from interested parties are completed before the claimant leaves the office. To assure a logical recording of facts and to make certain that all necessary information has been obtained for the issuance of a nonmonetary determination, the deputy is required to follow the sequence on the Eligibility Investigation Record in the preparation of each case. It provides a means for self-analysis and supervisory review of the written record.

Following a standardized format during the determination process establishes good work habits, alerts the deputy to omissions, and provides the supervisor with a standard for evaluating the deputy's ability to detect issues and record facts. The supervisor can at a glance determine the validity of any facet of the determination process.

Supervision and Review

Supervision and review form the third important aspect of quality control. Supervision ensures that the deputy is at all times performing his work to the best of his ability. Review provides immediate notification of training needs.

The probationary employee working toward advancement to adjustment deputy is usually assigned a desk near his immediate supervisor so that the supervisor may be readily available for counseling and guidance. Periodically, the supervisor personally observes and evaluates actual interviews. The deputy is made aware promptly of commendable aspects of the interview. He is told specifically where improvement is needed, e.g., failure in obtaining specific facts and rebuttals; failure to provide the claimant with information pertaining to his rights of appeal. To provide at least a minimum of uniformity in a difficult area of evaluation, a special form, Evaluation of Interviewing Techniques, is used. Through review of the completed forms, the UI manager can follow the progress of each deputy very closely. As time permits, he may observe the deputy at work and review samples of his completed work. The manager approves all appeals from the deputy's determinations to determine if reconsideration is warranted and to detect flaws in the deputy's adjustment work. The manager maintains an "open door" policy so that supervisors and deputies may feel free to seek assistance with any problem case.

Reviews by the central office complete the evaluation of local office nonmonetary determinations. The field supervisor surveys the operation of each local office semiannually. Nonmonetary determinations are reviewed as a part of this survey. He points out to the local office manager any shortcomings which he may find. The manager or the appropriate local office supervisor in turn discusses individual cases with the adjustment deputy concerned.

All local office personnel involved in the adjudication process are gratified, of course, when informed that a majority of their nonmonetary determinations are adequate. In all cases where determinations are found to be inadequate, training sessions are planned with the purpose of eliminating inadequacies from future determinations.

The July issue of the *Review* will contain articles on the administration of Federal programs of unemployment compensation for Federal Government employees and ex-servicemen, and on the payment of training allowances under the ARA and MDTA programs.

Processing Mass Appeals in Michigan

*Arnold C. Hartz**

APPEALS concerned in whole or in part with a common set of facts and a common issue involving a large number of claimants have prevailed in large numbers in Michigan since the inception of the employment security program in 1938.

A procedure has been set up wherein all multi-claimant contests involving labor disputes or holiday pay and vacation pay issues are investigated and determined by a single unit located in the administrative office, which is known as the Multi-Claimant Unit. This has been done in order to assure uniform determinations throughout the State when claims which indicate the same factual situation are filed in several branch offices. Also, because of the extremely complicated provisions of the Michigan Employment Security Act pertaining to labor disputes, it was felt that uniformity of interpretation of these provisions could best be obtained if determinations and redeterminations were issued by one central administrative unit.

Multi-Claimant Unit and Branch Office Operations

The Multi-Claimant Unit obtains information in writing concerning the contest from the employer and the union. Information is obtained also in the recordholding offices, and at least two statements from claimants are forwarded from each recordholding office to the Multi-Claimant Unit. After the investigation has been completed, the Multi-Claimant Unit makes a master determination and sends a copy to each record-holding office. Individual determinations are then released simultaneously on a predetermined date and are mailed by the various offices to the interested parties.

Upon the filing of a request for redetermination by, or on behalf of, the interested parties, the Multi-Claimant Unit reviews the matter and obtains additional facts. This unit then issues a master redetermination with respect to all claimants who have requested a redetermination, and so advises the recordholding offices. Written redeterminations are then issued simultaneously by all of the offices involved.

Individual appeals must be filed by, or on behalf of, each claimant involved. Only those cases involving a common issue may be included in a group. In the event that an appeal is filed by the claimant's representative, the claimant must have signed an authorization for such representation. An appeal filed by an attorney on behalf of a claimant or employer, in which he states that he is the representing attorney for the claimant or employer, will be accepted without further written authorization. The master file, which contains the facts which form the basis for the master determination and redetermination, is forwarded to the Referee Section by the Multi-Claimant Unit.

"Media" pertaining to each claimant must be assembled by the recordholding offices and mailed to the Referee Section. These include the claim, determination, request for redetermination, ledger card (if payments were made during the period in question or if restitution might be involved), registration for work, and appeal. The media are necessary for several reasons. Even though the cases at first glance may appear to be similar, there may be differences which are revealed when the media are examined closely. One difference might consist of late filing of requests for redetermination in some cases; another might concern the amount of restitution due. At times, availability of the claimant is questioned by the employer at the hearing, and the employer has the right to examine the records to determine whether the claimant has been registered properly for work.

Problems Arising in Mass Appeals

The authority for holding joint or group hearings is contained in the provisions of section 33 of the Michigan Employment Security Act, which reads in part as follows: "* * * *That when the same or substantially similar evidence is material to the matter in issue with respect to more than one interested party, the same time and place for considering all such cases may be fixed, hearing thereon jointly conducted, a single record of the*

*Chief, Referee Section, Michigan Employment Security Commission.

The chief referee and the appeals clerk analyzing multiclaimant files for the scheduling of group appeals.

proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others, provided no interested party is prejudiced thereby. * * *" Because of the large number of claimants involved and the requirement that each interested party must be given a reasonable opportunity for a fair hearing, we have found that there is a large amount of clerical work required in setting up each multiclaimant hearing and sending out notices to each party.

From the time that multiclaimant cases first arose, Michigan has tried every expedient to reduce the work involved at the lower appeals level. The method of choosing a typical case and holding a hearing in only this one case looked promising at first, but has been found to create additional problems. Appeal of a typical case as representative of all similar cases has proven completely impractical for the following reasons:

1. Seldom is a case so typical that all interested parties will accept it as such at the time of the determination or when the decision has become final. Usually there is an issue controversial as to both the facts and the law. Each party tries to have a case accepted as typical which is most favorable to his position in the matter. Attempts to use "typical cases" usually have resulted in disclosure at the hearing of facts that render them not typical.

2. Even if the case is accepted as typical in the beginning, there is no provision in the statute which requires any interested party to accept it as a determination of his own case. After the decision on the typical case is issued, the parties whose interests are damaged thereby make every effort to show that the typical case does not apply to them. The result is that this method multiplies the work and the decisions by reason of the appeals filed after the typical case has been decided.

These difficulties cannot be avoided, as every claimant has a right to a redetermination and appeal and no party can agree to waive this right. Every attempt to use a typical case to settle groups of claims has proven unsatisfactory to the parties and to this agency as it has resulted in additional work and lapse of more time than would have occurred with a common hearing and decision for all the claimants involved.

3. Even if the typical case would be accepted as a basis of deciding another appeal, it may result (and has) in an inequity when a difference exists between the typical case and the circumstances of the individual concerned which is not apparent on the commission records. Claims based upon a typical case do not receive the same amount of consideration after the final decision on the typical case as do claims grouped before the question is decided. There is a certain inclination to include everybody without regard to individual circumstances, which is difficult to counteract.

4. While a considerable time lapse transpires between the filing of claims and the final decision on a multiclaimant case, the time lapse is even greater when a typical case is used, since the transpired time is the same as for a multiclaimant decision,

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and there is the additional time, as well as workload, required to handle all the other claims based on the typical case.

Accordingly, the procedure of using the "typical case" method was abandoned and the joint-hearing method, as permitted by section 33 of the Michigan Employment Security Act, was adopted.

Prehearing Operations

When the appeals clerk in the Referee Section begins receiving multiclaimant appeals, it is then necessary to obtain information from the various recordholding offices as to the number of redeterminations issued and the expiration date of the appeal period. The appeals will not be scheduled for hearing until all possible appeals have been received. After the receipt of all these appeals, the files are screened carefully to determine whether the appeals involve a common issue which can be heard at a joint hearing. If the files reveal that the appeals involve a common issue, the cases are docketed with a master docket number with subnumbers assigned to each claimant. If different groups are involved, that is, different unions, different employers, different establishments, or different sets of facts, separate master docket numbers are assigned to the various groups, and the appeals clerk—in consultation with the chief referee—sets up the cases in different group hearings. If the appeal involves both union and nonunion workers, a separate group hearing is scheduled for the nonunion claimants.

The appeals clerk then contacts representatives of the claimants, employer, and the commission to arrive at a hearing date which will be suitable to all parties. If the hearing is to be in Detroit, then the appeals clerk must arrange also for a suitable location—one that will provide enough room for all interested parties. If the hearing is to be held elsewhere in the State, the branch office manager is asked to make arrangements for the use of a building or a hearing room large enough to accommodate all interested parties. The appeals clerk also encourages the representatives of the interested parties to review the files before the date of the hearing so that both parties may be apprised fully of the facts and issues involved, as revealed by the files.

The chief referee distributes the assignment of multiclaimant cases to the referees in such a manner that no one referee will be hearing more than his share of these cases. Other than the arrangements made by the appeals clerk for a hearing date and examination of the files, the interested parties ordinarily are not called in for any prehearing meetings by either the chief referee or the referee assigned to the case.

Referee Hearing of Mass Appeals

Notices of the hearing are sent to all interested parties as well as to all duly authorized representatives and attorneys. At the first hearing there is usually a large number of claimants present, and the referee will announce that the hearings involving the claimants present will be conducted

Referee hearing of a mass appeal.

as a joint hearing under the statute unless any one of the interested parties establishes that the conduct of such hearing would be prejudicial. The referee will then usually attempt to secure a stipulation of facts which are common to all of the claimants involved. This stipulation must, of course, be agreed upon by the representatives of the claimants, or by the individual claimants present, if not represented; the employer; and the commission. By the use of this stipulation, which is then made a part of the record, the hearing may be shortened greatly. If any claimant does not agree to the stipulation, or if any claimant feels his case is different from the facts set forth in the stipulation, he is entitled to a separate hearing.

Even though no stipulation is entered into, the usual procedure is to obtain testimony from witnesses for the employer as to the issues involved in the case as well as from a representative number of claimants who are present. Inquiry is then made as to whether the facts or circumstances are different for any of the other claimants present. If any of the individuals indicate that there is a difference, separate hearings will then be held for them. If it is impossible to complete the case at the first hearing, it is then adjourned to a later date agreeable to all parties. Usually, the claimants who are represented by the union or an attorney are advised that it will not be necessary for them to appear at the next hearing, except of course, those claimants who have expressed a desire for individual hearings. As to nonrepresented or nonunion workers, they are advised at this time of the date of the next scheduled hearing so that they may be present at that time. This procedure eliminates the necessity of sending out new notices of hearings and saves considerable clerical work.

Referee Decision

After the hearing has been completed, if the appeal involes more than 25 claimants, a single decision is issued by the referee with a list of the claimants attached. If fewer than 25 claimants are involved, separate decisions are issued. A copy of the decision is sent, of course, to each of the claimants and his representative, as well as to the employer and his representative. In the event that the referee finds that there was a difference in the facts or the issues concerning any of the claimants, separate decisions are issued covering these individuals.

The Adjudication Process at the Appeal Board Level

*Louis J. Naftalison**

THE PROCEDURES of the States vary as to the appellate processes that follow decisions rendered by the tribunals with original jurisdiction to hear and decide disputed claims for benefits. In many States, the successive appellate steps begin with a hearing before a hearing officer or referee after a claim for benefits has been disallowed or a disqualification has been imposed against a claimant; then the aggrieved party may appeal to an appeal board or board of review; and there is the right of further appeal to the courts. That is the New York procedure, and the observations and comments which follow will be within the framework of such a system.[1]

In New York, an appeal may be taken to the Appeal Board—within 20 days after the mailing or personal delivery of the notice of decision of the referee—by (1) the claimant; (2) the employer, provided that he appeared at the referee hearing; or (3) the Industrial Commissioner—administrator of the unemployment insurance system—regardless of whether or not he appeared or was represented at the referee hearing.

The New York Appeal Board, consisting of five members appointed by the Governor on a bipartisan basis, is charged with the responsibility of reviewing the appeal. It may decide a case on the basis of the record and evidence previously submitted or it may, at its discretion, hear argument or hold a further hearing, or may remand the case to a referee for such purposes as it may direct.

Appeal Board Procedures

Upon the filing of an appeal, the entire case

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[1] A few States, including New York, confer jurisdiction upon such tribunals to adjudicate tax cases wherein only the State agency and employers are involved and which do not involve a benefit claim. For the purposes of this article, only benefit cases will be considered.

folder is transmitted to the Appeal Board, together with a transcription of the minutes of the referee hearing. The case is then assigned to one of the attorneys of the board. It is his duty to analyze and review thoroughly the entire file, including all jurisdictional papers, correspondence, and briefs or statements submitted by appellants or respondents. Where necessary, he must make research of court or Appeal Board precedents. He then prepares a detailed summary of the facts, arguments, and applicable precedents, and a recommended decision.

The appeal is channeled to a panel of three board members. The first member of the panel reviews thoroughly the entire case file and he then consults with the attorney who prepared the case. The member then makes his decision and directs the attorney to prepare a draft decision for the board. The member edits and revises the draft decision as is necessary. When he finally approves it, the proposed decision is routed to the other two members of the panel who, in turn, review the file and the proposed decision. If either one of the other two panel members disagrees or wishes to modify the draft decision, conference is had with the original member of the panel. If there is no unanimous concurrence among the three panel members, the case is referred to the entire board at its weekly meeting for discussion and decision. The minority may render a dissenting opinion.

In establishing procedures for hearings, both on the referee or board level, the Appeal Board makes certain that the basic elements of a fair hearing are complied with procedurally. Were the parties given ample notice of hearing with sufficient time to prepare for it? Were the issues in dispute fully revealed to the parties so that they were aware of the purposes of the hearing? Were parties advised that they had the right to representation at the hearing? Were parties told that they could bring witnesses to the hearing? Were parties informed to bring to the hearing all evidence bearing upon their case? Were parties informed of their rights to a reasonable adjournment of the hearing? Finally, when the decision was rendered, were all parties advised of their right of appeal?

The Appeal Board, carefully and with deliberation, reviews a case on appeal to make certain that the elements of a fair hearing are ever present. Did the referee introduce himself and all persons present? Did he outline the issues to be heard? Where both sides were present, did he require the party who asserted a claim or made a charge against the other to testify first, following which the opposing party was given an opportunity to be heard? Was full examination of parties and witnesses conducted? Was cross-examination permitted? Was everyone who testified permitted to do so freely and without unnecessary interruptions? Was each of the parties given full opportunity to present all material and relevant evidence and to rebut the proofs offered by the opposing parties? Was the claimant given the last word and asked if he had anything else to say in support of his claim? Does the record reveal that the attitude of the referee and the atmosphere he engendered were consonant with the spirit of a fair, impartial hearing where there was a searching inquiry into the facts of the case and not a legalistic contest for advantage of one party over another? Fortunately, by reason of intensive training and promulgation of standards of hearings, few referee cases are found wherein these safeguards have been omitted. Nevertheless, the board never drops its guard in reviewing cases to check that these elements of a fair hearing were present in every instance.

Reasons for Appeal Board Hearings

The Appeal Board holds hearings in about 10 percent of the appealed cases. Such hearings are made necessary where it is deemed that the record is not complete, or where the board deems it necessary to obtain further material evidence, or where the argument on a disputed question of law requires further development. The board will remand a case to a referee for further proof in those isolated situations where a referee has failed to adjudicate all of the issues involved or where a party has not been given an opportunity to be heard. Remand orders are resorted to only rarely because such procedure produces further delay in arriving at a final decision.

One of the basic reasons for ordering a hearing at the board level may be that the requisites of due process may not have been observed at the referee level. It is understandable that under the pressure of a heavy calendar of from 8 to 10 cases a day (in 1963 the referee corps of 36 referees disposed of 61,863 cases), the referee may have failed to follow strictly the standards of due process, such as the confrontation of adverse witnesses, the right of cross-examination, and the right to a rea-

sonable adjournment. Fortunately, this basis for a further hearing rarely arises. More often, the need for a further hearing by the board arises from the fact that employers often default in appearing for hearings when they are directly concerned in the issues involved, such as voluntary leaving of employment, misconduct, or industrial controversy. Realizing that an informed decision cannot be rendered in such cases without the testimony of the employer, the board is required to hold a further hearing. If necessary, resort is then made to the board's power of subpena to obtain the attendance of the employer at the board hearing. This situation may occur when the referee has relied too heavily upon hearsay evidence submitted by the employer to the local office either by telephone or written communication.

Hearings are also ordered by the board when a party submits an offer of proof of material evidence which was not available to such party at the time of the referee hearing and which may affect the result of the appeal.

Another situation which compels a board hearing is where the referee case has been decided strictly on a basis of credibility of witnesses, and a doubt arises as to the choice made as to such credibility and the board wants to see and hear such witnesses to decide where the credibility lies.

Finally, board hearings are ordered in cases which involve a novel or complex issue of law so as to give each party an opportunity to submit argument and precedents in support of his position.

Where it is indicated that the question involved will be the subject of court review, the board will hold a hearing to explore fully the issues for the guidance of the court upon judicial review.

Standards and Training for Hearings

Under the New York law, the Appeal Board is charged with the supervision, direction, and administrative control of the referees. This responsibility is a weighty one and is zealously exercised to insure compliance with the Federal Social Security Act requirement that each State must provide in its law an "opportunity for a fair hearing before an impartial tribunal for all individuals whose claims for unemployment compensation are denied."

The Appeal Board sets the standard for a fair hearing in keeping with the constitutional concepts of due process of law and commonsense standards of fairplay. These standards apply not only to referee hearings but to board hearings as well. The board has promulgated "Rules and Regulations Governing Practice and Procedure Before Referees and Appeal Board."

In keeping with these standards, the board conducts intensive training courses for referees. Inherent in such instructions, emphasis is laid upon the need for impartiality and guarantees of a fair hearing, with full opportunity to be heard afforded to all parties in interest, their witnesses, and their representatives. In 26 years of experience, thousands of precedents have been established by the courts and the Appeal Board. These are called to the attention of the referees together with the principles and policies to be distilled therefrom. This training of referees is on a continuing basis and meetings between the board and the referees are held when required. Annually, a 3-day institute is held at which problems of substantive and procedural nature are discussed and analyzed. In addition, outstanding authorities in the field of administrative law address the institute.

Powers of the Appeal Board

The Appeal Board and the referees are independent adjudicators in New York. They are completely separated from the supervision of the administrators of the unemployment insurance system. This independence has been recognized and sustained by the courts in numerous decisions. The board and the referees have the power to review any administrative discretion exercised by the Industrial Commissioner in making his determinations. A court has held that the interpretation of the Appeal Board as to the statute or the commissioner's rules and regulaions must predominate rather than the view of the Industrial Commissioner as the prevailing administrative interpretation. The Appeal Board has the final power of decision on the facts of any case and on the law as well, only subject to judicial review in the latter instance. As a recent court decision expressed it, the Appeal Board "is the highest administrative body in the unemployment insurance claim adjudication hierarchy" so that its finding of fact "must be accepted by the courts if it has warrant in the record and a reasonable basis in law."

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Appeal Board's Training Program in California

*Jack D. Clevenger**

IT IS doubtful that any State in the Nation presents greater problems for an unemployment insurance appeals agency than those existing in California. The paradox of declining key industries in an otherwise booming economy, an exploding population, the State's geography with its concomitant problems of transportation, and the need for decentralization; these, among other factors, combine to create a situation perhaps unique for an appeals body.

The California Unemployment Insurance Appeals Board was created in 1943 to administer an autonomous appeals division attached to the State Department of Employment. Under the Unemployment Insurance Code, personnel of the division are appointed, directed, and controlled solely by the board. The Department of Employment is responsible only for the fiscal and housekeeping services necessary to the division.

The original staff of the division was comprised of three referees, headquartered in Sacramento, the State capital. Eventually, referee offices were opened in Los Angeles and San Francisco, and this was the extent of the division's operation for many years. Then, beginning in 1960, to provide satisfactory and efficient service, the Appeals Board initiated a drastic decentralization program. Today, the division has 10 referee offices scattered throughout the State in addition to the board headquarters in Sacramento. It has 250 employees, of whom 70 are referees. Of the referees, 32 have joined the division since January 1960. Since then, each office has become solely responsible for the performance of clerical, reporting, hearing, and decision functions for appeals filed with it. A senior referee supervises the eight large offices; two smaller offices are directed by a referee in charge. At the present time, this staff disposes of more than 50,000 decisions at the referee level and about 5,400 decisions at the board level each year.

*Chief Referee, California Unemployment Insurance Appeals Board.

California Unemployment Insurance Appeals Board—Seated (left to right): Norman J. Gatzert, member; Gerald F. Maher, chairman; and Lowell Nelson, member. Standing (left to right): Lowell W. Harris, board secretary and legal adviser; Jack D. Clevenger, chief referee.

This rapid and tremendous expansion has resulted in need for a continuing training program to make new referees competent experts in the field within the shortest possible period of time and to provide for constant personal development of all referees throughout their careers.

The Appeals Board, presently comprised of Gerald F. Maher, chairman, a former newspaperman and press secretary to Governor Edmund G. Brown; Lowell Nelson, a former labor union official; and Norman J. Gatzert, an attorney, has direct responsibility for this program. It is assisted by Lowell W. Harris, its secretary and legal adviser, and by the author, the chief referee. It is the chief referee, the supervisor of the 10 field referee offices, who directs the training program for the board. The chief referee is also charged by the statute with maintaining a continuous review of decisions of referees.

The new referee, immediately upon hire, is instructed by the senior referee in referee office and board procedures, and in the Department of Employment benefit, disability, and tax functions (including a visit to a local office). He is then assigned a specific study program of board and court precedents. This takes about 2 weeks. The new referee then is assigned a 1 month's calendar consisting of interstate cases in which his only responsibility is to write the decision. During this period, he also audits hearings conducted by veteran referees in intrastate cases. At the conclusion of the first month, he is assigned a minimum calendar of intrastate cases which he both hears and decides. This calendar is gradually expanded as the new referee grows in proficiency.

For the entire referee staff, there are periodic auditions of hearings by the senior and chief referees, auditions of other referee hearings by the referee himself, review of decisions by the senior and chief referees, quarterly regional training conferences with a uniform agenda prepared by the chief referee but directed by one of the referees, and statewide and regional forums conducted by the referees' own organization, the Administrative Referees Association.

Minimal Hearing and Decision Standards Adopted

A review of transcripts and decisions of referees early demonstrated the need for adopting minimal hearing and decision standards. It was also clear that these should be developed before instituting an orientation and training program for the new referees. These minimal standards for conducting hearings and preparing decisions arose out of the adoption by the State personnel board of an annual "Performance Appraisal Summary of Past Job Performance of Permanent Employees." It was obvious that there was a need for different standards of appraisal for referees than those for State civil service employees whose job performance is not on constant public display and the results of which lack the social impact of the work of referees.

At meetings of the supervising referees, which also are held quarterly, criteria were adopted to evaluate the performance of referees and later (on April 5, 1963), at the request of the Appeals Board, included in the specifications for referees by the California State Personnel Board. These include the following set of principles:

1. Establishes and maintains a hearing atmosphere in which parties are at ease.
2. Observes differences in the ability of parties to communicate and modifies hearing techniques accordingly.
3. Inspires confidence in his judgment by his demeanor and bearing.
4. Recognizes and assumes responsibility for developing the necessary evidence on noticed and related issues.
5. Understands and effectively applies the laws of evidence and procedure in conducting the hearing.
6. Conducts hearing in a manner which does not reflect by demeanor or tone any bias or prejudgment.
7. Understands and applies the appropriate law and Appeals Board and court principles.
8. Writes and speaks clearly, understandably, and effectively.
9. Prepares and submits decisions promptly.

Goals of Training Program

As a training aid for effective decision writing, we had the advantage of an excellent manual which had been prepared in 1957 by my predecessor, Chief Referee Edward C. Langan. However, we lacked training material on how to conduct a fair and impartial hearing. Some of the goals we hoped to achieve by a training program were to—

1. Achieve "fair" hearings from both a psychological and legal viewpoint.

2. Facilitate review by the board and its staff by improving the referee's record.

3. Make it easier for reporters to report the hearing.

4. Orient new referees.

5. Reduce needless appeals to board.

6. Assure a degree of uniformity among both old and new referees, in both northern and southern California.

Because of the increase in interest in the outcome of administrative hearings, more parties now are represented at hearings by an attorney, a union representative, a personnel assistant assigned to unemployment insurance claims, or a firm which represents a number of employers. It is a natural tendency for these representatives, as they become "hearing" specialists, to raise technical legal objections to the conduct of the hearing. Because of this continual pressure from representatives, some referees tend to become legalistic in the manner in which the hearing is conducted. It is a tendency which we strive constantly to avoid.

While a referee must have a knowledge of, and experience in, use of the law of evidence in ruling on objections—to control the order of the hearing and to assure that due process is given—the hearing standards which are adopted by the appellate agency must, in addition, give equal consideration to the psychological aspects of a fair hearing if it is to be considered "fair" from the parties' point of view.

The board considers the psychological aspects to include:

1. Putting the parties at ease at the outset of the hearing by introduction of the parties, the referee, and reporter.

2. Explaining the issues and technical terms to increase understanding of what evidence will be relevant and also to improve acceptability of referee's decision as the final adjudication of the appeal.

3. Recognizing that the appellant, by appealing, has expressed dissatisfaction with the action of the department. His evidence, therefore, should be developed first insofar as practicable.

4. Emphasizing the separation of the roles of the Department of Employment (executive) and the referee (adjudicative) by identifying the referee, the referee office, and the forms which are used, with the autonomous board, rather than the department.

5. Questioning the parties in a nonaccusatory manner, preferably using questions which do not unnecessarily limit the answers.

6. Laying a proper foundation for the introduction of secondary evidence, documents, and "expert" testimony, since lay parties are not aware of the significance of the evidence and may not be capable of making objections to the entry.

Training and Review Program

The board's training and review program to attain these standards has been:

1. *Self-evaluation.*—Evaluation by the referee of his own performance is preferable to standards enforced by supervision. By listening to recordings of his hearing or reviewing his transcripts, if sufficiently motivated, he may overcome a trait, habit, or mannerism which adversely affects the quality of his hearing.

2. *Observation.*—In calendar 1963, two trained referees were assigned to observe either a 1- or 2-day calendar for each referee. An evaluation form for each hearing was devised and completed for each hearing and decision. An analysis of hearings and decisions reviewed was furnished the referee, the senior referee, and the chief referee. With few exceptions, the quality of hearings and decisions of referees improved as a result of this observation and analysis. This year the evaluation has been assigned to senior referees.

3. *Postreview by chief referee, board, and board's staff.*—The transcripts and decisions of every referee are reviewed systematically by the chief referee. Areas of excellence or required improvement are referred to the senior referee for discussion with the referee. Copies of each board action on a referee's decision is given the referee. Referee and board decisions which present a legal or human interest problem of general interest or which are usable as an aid for decision writing are sent to each office for review by referees and for filing in the referee office library after review. The senior referee, or his alternate, postreviews decisions of referees. A more extensive review is made of transcripts and decisions of probationary referees by the senior and chief referees. A written report of each review of decision or hearing, keyed to standards, is furnished the referee.

4. *Training conferences.*—For the lack of a better word, quarterly regional meetings of referees

Referees of California Unemployment Insurance Appeals Board attend quarterly regional training conferences presided over by a referee. Primary goal of training program is self-evaluation.

to discuss the manner and method of conducting hearings have been called "training" conferences. Training bulletins have evolved from these meetings and from the analyses of transcripts by senior referees, the board and its staff, and the chief referee. Publications from outside sources which relate to conduct of hearings have been included.

Some of the subjects discussed in the training bulletins are: (1) Preappeal review; (2) contents of the opening statement; (3) oath and affirmation to witnesses; (4) examination of witness techniques; (5) order to be followed in hearings; (6) points of inquiry on able and available for work, voluntary leaving, domestic or marital leaving, and misconduct; (7) introduction of exhibits; and (8) prevailing wage.

Administrative Referees Association

Following the adage that one learns from the experience of others, referees in 1953 formed the Administrative Referees Association. A statewide annual forum and periodic regional forums, which are well attended by representatives of employers and claimants who appear before referees, are conducted by the association. They have contributed to a wider understanding of unemployment insurance principles and procedures, not only by referees, but also by these representatives.

In 1963, as a joint project of the association and the board, each referee prepared a treatise on an assigned topic in the field of employment security. The resulting publication, *Referees Examine Unemployment Insurance*, has been purchased by approximately 150 representatives and was distributed at no cost by the IAPES (International Association of Personnel in Employment Security) to each local office. This year, the association has encouraged continuance of this project by conducting a contest for additional articles.

Independent Judgment of Referee

As a final comment, the board while encouraging and developing review and training of referees by supervision, has never intended that the judgment of the reviewer should be substituted for that of the referee in deciding the merits of a particular appeal. Independent judgment is the goal. Each decision is the decision of the referee. When, in the opinion of a senior referee, the decision is contrary to board precedent, the referee is neither requested nor required to alter his decision. Instead, a request is made through the chief referee for the board to assume jurisdiction of the appeal, which under California law may take place either before or after the issuance of the referee's decision. The board itself then makes its own decision in the matter.

Court Review of Administrative Decisions

*Francis Bergan**

THE RIGHT to obtain a review or reexamination of any official action which adversely affects our rights, or even our sensibilities, is such an ingrained part of our thinking and of the pattern of public power that it seems entirely normal when an administrator rules against us to expect that we can carry it "up" somewhere.

The question is, where? By long tradition in this country we have had access to the courts for this purpose; and to this access there are disadvantages as well as advantages. Some highly developed modern administrative agencies acting frequently in quasi-judicial fields have built-in and complex adversary review systems of their own.

One example of a sophisticated modern system handling a very large volume of disputed issues is the Division of Employment of the New York State Department of Labor, which administers the State unemployment insurance system. An initial determination by the commissioner's agent against the claimant is reviewable in a hearing before a referee. The referee's decision is in turn reviewable by the Unemployment Insurance Appeal Board. Although the Appeal Board itself is subject to appellate review in the courts, a vast amount of litigation has been disposed of finally by the board.

The first essential of a review of any kind, administrative or judicial, is maintaining in some form a separation of the reviewer from the reviewed. Some kind of distinction must be kept, for example, between the reviewing agency and the agency which made the determination. Similarly, there are differences between the viewpoint

*Judge, Court of Appeals, State of New York.

of the Unemployment Insurance Referee and the Unemployment Insurance Appeal Board. There is a difference in authority and in viewpoint between the Workmen's Compensation Referee and the Workmen's Compensation Board which reviews the referee.

These differences in viewpoint and authority seem basic to the process. The man who examines the problem on review must really give a fresh and objective look if review is to be worthwhile. He has to be removed from the initial process of making that particular decision. He can be personally very friendly with—and have close personal and social ties with—the man whose work he reviews; but, officially, he must be set apart from him in some way if the "review" is to be effective. This separation is a prime essential to any kind of adequate appeal or review.

There are reasonable differences in opinion as to where that review of administrative decision ought to be prosecuted. In France, for example, the review of administrative determinations is nearly always made, not by a law court, but by a branch of the administrative agency, so that the reviewing board in a French administrative review is composed of a group of specialists who have passed through the ranks of the agency itself. The original determination is made by a specialist, and the review is made by other specialists. There is much more technical competency in that kind of review than in a review by law judges.

Then there is the other approach, where review of administrative determinations comes into a court which is not specialized in that particular area and which occasionally holds quite naive views of the problems involved. It must be admitted that a law court sometimes has difficulty in seeing fully all of the specialized implications. It just cannot be expected, in highly technical fields and within areas of heavy specialization, that the judges who are primarily occupied with other matters (as "specialists" in law) will always be able fully to grasp the subtleties of highly technical problems.

There is a great deal to be said for the French administrative reviewing system. It remains in technically competent hands from beginning to end. Nevertheless, it has a disadvantage in that many technicians and specialists tend to think that the world turns around their own specialties, and they hold myopic views. They become so close to the specialty with which they deal that there is a tendency to fail to see the whole problem in full public perspective.

Under our system in the United States and under the English system, to a large degree, the general law courts review administrative determinations. Sometimes we have had good results, and sometimes indifferent ones. The advantage, of course, is that a court really takes a fresh look at the problem, and not exactly from the viewpoint of the administrator. While mistakes are apt to occur in such a review, there is a tendency to preserve the commonsense, middle-of-the-road viewpoint which is the main essential in fair adjudication. In the long run, this is a healthy thing for both the government and the community.

Actually, it is remarkable how many varieties of technical concepts the courts are able to absorb and to arrive at a basic understanding of them. We have difficulty, for example, in areas such as public service regulation matters, where we get highly complex and involved systems of accounting as to rates. Days and days of expert testimony may have been taken, and the judges approach the review of such material with considerable reservation about being able to take the time necessary to absorb it, and perhaps even, ultimately, to understand it.

Yet there is an interesting thing about specialists. Their differences of opinion, like those among other men, depend in the end on relatively narrow issues. If you can give the time and attention necessary to comprehend the problem, even though it lies outside of your own special field, you can put your finger on the real issue—provided you are experienced enough with studying and making decisions on general problems. The essential feature on which the case hangs—as to whether the decision should be this way or that way—usually lies buried somewhere under a pile of papers.

It is remarkable how often one realizes—after listening for many hours to the parlance of accountants on entirely technical matters—that what they are talking about is not really so complicated in the final analysis. The courts have been able to make an exceptionally effective record in addressing themselves to highly complex problems which come up to them from the administrative process.

Limitations of Judicial Power

The courts have certain basic limitations in

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Issues Reflected in Recent Appeals Decisions*

Quitting an Unsuitable Job

SHOULD a claimant be penalized for leaving a substandard job—one which he would have been justified in rejecting initially; or does the unsuitability of a job furnish good and sufficient cause for leaving?

Because they constitute such definitive guidelines, the suitability criteria have been applied by many of the States also in determining whether good cause exists when a claimant has left his work voluntarily. The reasoning is that if the unemployment insurance claimant should not be penalized for *refusing* a job with substandard pay or working conditions, he likewise should not, in the interests of equity, be disqualified for *leaving* the same substandard job and, also to insure that the unemployment insurance program does not exert a downward pressure on existing labor standards.

Despite the simplicity of the conclusion that good cause for refusal of work is good cause for a voluntary quit, there are many exceptions to this viewpoint. Often opposite conclusions are reached when questions are raised with respect to length of time spent on the allegedly unsuitable job, or about interpretation of the real intent of unemployment insurance legislation with regard to suitability provisions. There may also be the opposing view that acceptance of a job renders it suitable for the worker. Recent appeals decisions point to a trend toward the interpretation that good cause for refusal of work is good cause for a voluntary quit, but its opponents raise legitimate objections which probably can be answered only in the context of each special and peculiar situation.

The Louisiana Court of Appeal (in *Jesse Brown* v. *Richard E. Brown, et al.*, Second Circuit, No. 9938, dated April 25, 1963, VL–210–73, BSSUI), held that because the wages, hours, and other conditions of a claimant's job were substantially less favorable than those prevailing for similar work in the locality, he voluntarily left work with good cause connected with the employment. In this case, the claimant worked from 8 a.m. to 12 midnight, without time off for lunch or dinner, for $20 a week. The court, in a discussion of the working conditions which the claimant found intolerable, referred to the provision of the Louisiana statute dealing with the refusal of work (LAS–R.S. 23:1601(3) (a) and (b):

> The rule is that no work shall be deemed suitable and benefits shall not be denied to an eligible individual for refusing to accept work if the wages, hours, or working conditions are substantially less favorable than those generally prevailing for similar work in the locality.

In further reference to the provision, the court cited the opinion in *Robertson* v. *Brown*, Court of Appeal, First Circuit, 139 So. 2d 226, 229:

> It would seem to follow that if an unemployed worker may not be denied benefits for refusal to accept employment under such conditions, we see no valid reason why an employer's creation of similar conditions should not constitute good cause for leaving connected with the employment within the meaning and intendment of the phrase good cause connected with his employment.

Similarly, a Delaware referee (No. 11003, March 13, 1961, VL–500.7–21, BSSUI) held that a dishwasher's helper, who earned $23 a week for 46 hours' work when the prevailing rate for similar work in the area was considerably higher, left with good cause attributable to such work:

> If the work in question had been offered to the claimant by the Employment Service or if the claimant had been referred to such work, the claimant could have properly refused the offer or referral on the ground that the rate of pay was less than the prevailing rate. In our opinion, the claimant is equally entitled to quit employment without penalty when the rate is below the prevailing rate.

In finding new and suitable work for a claimant, his background, training, and experience are the criteria which serve as guides for the Employment Service in placing the claimant in his proper job classification. Correspondingly, very often when a claimant leaves a job it is because it is not in his regular line of work. In an Idaho appeals examiner's decision (No. ESA 312–62, dated March 9,

*Prepared in the Division of Determinations and Hearings, Office of State Operations, Unemployment Insurance Service, Bureau of Employment Security.

1962, VL–515.6–35, BSSUI), a millwright with 10 years' experience, and who was originally hired as a millwright, was assigned to work as a tail sawyer for an indefinite period. Because he had difficulty in keeping up with the work and could not receive assistance from his coworker or foreman, he became frustrated to the extent that he found it necessary to quit. In referring to the claimant's background, the appeals examiner stated:

> His age, 52, and his position as millwright for the past 10 years, indicate that he had, through his own efforts and increased ability, advanced to a job which utilized his skills to their fullest extent in becoming a millwright.

The examiner concluded with this reference to the claimant's last position from which he resigned:

> In the instant case, the claimant was placed on a job which, considering his ability, age, and past experience, can be considered as unsuitable. Thus, it may be stated that he had good cause to leave this position.

A more recent Illinois Board of Review decision (No. 63–BRD–375, dated February 28, 1963, VL–515.35–15, BSSUI) parallels the Idaho appeals examiner's decision in the case of a woman who was employed at a meatpacking plant for 3 months and found the working conditions, involving lifting heavy crates out of cold water at premises in which bugs and rodents had to be kept under control, so intolerable that she requested a transfer to lighter, less offensive work, but when it was denied left the employment. In a discussion of claimant's reasons for leaving and reasons constituting good cause for leaving employment, the board reasoned:

> In the case of an individual who leaves a job after a short period of time, contending that he cannot adjust himself to the conditions of employment, we apply the tests of suitability * * * dealing with refusal of work, and we consider, among other factors, his background, training, and experience, the degree of risk involved to his health, safety, and morals, and his physical fitness and prior training.

The board, after taking into consideration the conditions under which the claimant worked in the light of the above suitability criteria, and the fact that she made a reasonable attempt to adjust herself to the conditions without success, concluded that they were of such nature as to render the job unsuitable for her in view of her background and experience. She was held to have left work voluntarily with good cause.

But in another Illinois case, with emphasis on the basic intent of section 603 of the Illinois Unemployment Compensation Act dealing with suitable work, the Board of Review reached an opposite conclusion (Decision No. 62–BRD–2410, September 12, 1962). The claimant, a cost clerk, after working for the employer for 6 years became dissatisfied with her wage of $62 a week. Although the employer offered her a $2-a-week increase, she did not consider this sufficient, and she quit. The median wage for persons performing similar work in the area was $77 a week, with a wage range of from $50 to $135, with the middle 50 percent earning $69 to $84 weekly.

The Board of Review, in ascertaining whether good cause existed for the claimant's leaving her employment, maintained that the section of the Illinois Unemployment Compensation Act pertaining to refusal of work was not applicable to cases involving voluntary leaving, and set forth their interpretation of the intent of the Federal minimum labor standards of section 3304(a)(5) of the Internal Revenue Code, as amended:

> Its purpose is to prevent the unemployment compensation program from exerting a downward pressure on existing labor standards. It was not intended to increase wages or to improve the condition under which workers are employed, but to prevent any compulsion upon workers, through the denial of benefits, to accept work under less favorable conditions than those generally to be obtained for such work. To conclude that a worker who earns a living wage—but does not receive earnings similar to those which many others receive—has good cause for severing his employment relationship, would, of necessity, compel a conclusion that all workers who receive wages below the middle of a prevailing wage may quit their jobs and become unemployment compensation claimants. Certainly, this was not the intention of the statute.

The Board concluded that the claimant left her job voluntarily without good cause holding that, although her wage was lower than that which prevailed in her area, it was a living wage which could have subsidized her until she found employment which was more to her liking.

The Appellate Division of the New York Supreme Court in the *Matter of the Claim of Arthur Sellers* (215 N.Y.C. 2d 385, 13 A.D. 2d 204), dated May 23, 1961, decided the case of a porter who worked for his employer for a period of 2 years at a starting wage of $52 for a 48-hour week, and who, at the time he left because he was dissatisfied with his pay, earned $55 for a 48-hour week. The court assumed for the sake of argument that the claimant's wages were less than those generally

prevailing for his occupation in the area, but dismissed the importance of this as a criterion in this situation. In interpreting the intent of the Unemployment Insurance Law, the court specifically stipulated that "it was not intended as a substitute for a minimum wage law * * *" or to regulate wages.

With less emphasis on the suitability of the job in terms of the prevailing wage, the court applied section 593, subdivision 1(a), which reads as follows:

> No days of total unemployment shall be deemed to occur after a claimant's voluntary separation without good cause from his last employment prior to the filing of his claim until he has subsequently worked in employment on not less than 3 days in each of 4 weeks or earned remuneration of at least two hundred dollars. In addition to other circumstances that may be found to constitute good cause, voluntary separation from employment shall not in itself disqualify a claimant if circumstances have developed in the course of such employment that would have justified the claimant in refusing such employment in the first instance under the terms of subdivision two of this section.

The court stated:

> The claimant is not entitled to benefits after a voluntary separation from employment solely because of dissatisfaction with wages, even if they were less than the prevailing wage, unless circumstances have developed in the course of such employment that would have justified the claimant in refusing such employment in the first instance.

Pursuant to this provision, the court noted that nothing developed in the course of the claimant's employment which would have justified his refusal of the work at the onset. Because the claimant quit work which paid below the prevailing wage, the court assumed that the claimant was aware the pay was substandard when he accepted the job. The claimant was held to have voluntarily quit without good cause, and the court stated:

> To hold otherwise would permit an employee, fully aware of the wage to be paid, to take a job and use that job for the necessary qualifying period of employment, and then, for no reason not present in the first instance, voluntarily quit and receive unemployment insurance benefits. Such an interpretation is unrealistic and entirely beyond the real purpose of the statute.

In a recent Virginia appeals examiner's decision (No. UCX–170–172, dated April 19, 1963, VL–150.2–79, BSSUI) in which there had been a change in conditions during the claimant's employment, although personal in nature rather than directly job connected, the claimant was held to have voluntarily left work with good cause. The claimant, who depended on a ride from his coworker to a jobsite which was 100 miles away from his home, was forced to accompany his coworker when he decided to leave the job, due to lack of other transportation, to another position which lasted only several weeks. The appeals examiner concluded that the work became unsuitable when it was no longer accessible to the claimant's residence after his coworker left the job.

Time is a critical element which unemployment insurance adjudicators consider when determining whether to apply the suitability criteria to cases of voluntary leaving. The tendency is to apply the criteria more to short-term employment than to instances where the claimant has spent substantial time on the job, and to avoid penalizing a claimant for at least giving trial to work which subsequently proves unsatisfactory.

In an Idaho decision of appeals examiner (No. ESA 12–63, dated August 28, 1962, VL–515.4–25, BSSUI), a tailor left her job because she did not like working with her employer's wife, but indicated upon filing her claim that the real reason she left was her dissatisfaction with her wages. She was held not to have good cause for leaving because she did not afford her employer an opportunity to rectify the situation. The appeals examiner found that, because she worked at her rate of pay for a considerable length of time, the wage had to be considered suitable.

In a referee's decision from Hawaii, on the other hand (No. 239–60, December 29, 1960, VL–425–27, BSSUI), the determination of the existence of good cause for the claimant's voluntary leaving depended to a large extent on the criteria of suitability, notwithstanding the claimant's lengthy employment under the conditions to which she objected. A fry cook, who worked for the same employer for 8 years for $1 an hour when the prevailing wage for her occupation in the locality was $1.50 an hour, left because she was insulted by the employer's criticism of her work. The referee concluded that, regardless of the claimant's immediate reason for leaving, the low wages made the work unsuitable, constituting good cause for her leaving.

Is the situation of an employed person who quits substandard work really different enough from the unemployed individual refusing the same substandard work to warrant two sets of criteria—one to determine good cause for leaving employ-

ment, the other good cause for refusing work? Or should the same suitability criteria be applied in both instances? Does part of the rationale for not applying the same standards in some States stem from the fear that already employed individuals will quit work and use the unemployment insurance programs to finance the improvement of their job situations?

Unemployment Insurance Decisions*

Jury Duty

New York.—A retired salesman was free to work only part time or on Monday and Friday because he was serving as the foreman of a Federal grand jury. An appeals referee allowed benefits, concluding that the claimant had sought work and that the fulfillment of his civic obligation should not be the basis for the denial of benefits. This decision was reversed and benefits were denied by the New York Appeal Board (Appeal No. 108545, March 12, 1964). The Board found that the assignment was expected to last 21 months and that, in the past 3 years, the claimant had been excused from jury duty three times, and was not permitted to be excused until the jury was discharged. Since, in his capacity as foreman, the claimant's required attendance to his duty was constant and regular throughout the period, the Board held that he was not available for work.

Pigeon Trainer Not Unemployed

New York.—The claimant bought a pigeon training business, incorporated it, and was president and stockholder of the corporation. Business was obtained by solicitation of pigeon fanciers and trainers. The training was done by taking crates of pigeons to New Jersey and there setting them free. The charge for this service was $1 a crate. This is a seasonal business, with the season extending from early March until the end of October. The claimant filed a claim during the offseason in November and contended he had been seeking work. The referee said, however, it was unnecessary to rule on his availability, as he was an officer and stockholder in an existing business, and had indicated that if he could not find temporary work, he would return to pigeon training when the season began again. He was not totally unemployed. (New York Referee No. 532–806–63, January 20, 1964; aff. Appeal Board Appeal No. 111,071, March 19, 1964.)

To Teach or To Type

Texas.—A claimant with a degree in education, whose main interest was in the teaching field, had been working as a clerk-typist because she lacked several hours of Texas history needed to qualify for a teaching position. While unemployed and claiming benefits, she was referred to a straight typing job at the same wage she had previously earned as a clerk-typist. During the interview with the employer, she was advised that they generally preferred not to hire people in the teaching profession because they usually returned to that profession at the earliest possible moment. After advising her of several possible places of employment as a substitute teacher, he indicated that it might be a waste of time for her to take the tests prerequisite to the job. A Texas appeal referee's decision (Appeal No. 9559–AT–64, February 17, 1964) found that the claimant could have taken the tests if she desired and that, since she did not persuade the employer to give her a trial, she had talked herself out of a job offer under conditions which were disqualifying under the work refusal provision of the law.

Forced Admission of Theft

Utah.—An auto-parts worker, in the presence of his employer, denied accusations by an unidentified person of theft and dishonesty in connection with cash shortages totaling $6,000. Being led to believe that he might lose his job, be arrested and prosecuted, he signed a dictated statement saying that he had misappropriated company funds and that he was liable for $880. He was then advised that he must repay this amount the next day. The following day he restated his innocence, refused to repay the $880, and was ordered out of the office. As of some months later, he had heard no more of the matter. The appeals referee held that he was not discharged for dishonesty constituting a crime in connection with his work, as shown by the facts *together* with his admission, as required by the Utah Employment Security Act. His signed statement resulted only from his fear of the consequences outlined by his employer. (Utah Appeals Referee Decision No. 64–A–3193, March 9, 1964.)

Attempt To Circumvent Backpay Award

Wyoming.—The claimant had worked for an employer for 11 years as a carpenter and carpenter foreman. Shortly before his separation, the National Labor Relations Board had determined that he and other employees were entitled to substantial amounts of backpay for overtime which had been paid by the employer at their regular hourly rate rather than time and one-half. The employer attempted to obtain the claimant's agreement to a proposition which would actually defeat the purpose of the

*Prepared in Division of Determinations and Hearings, Office of State Operations, Unemployment Insurance Service, Bureau of Employment Security.

backpay award. The claimant contended that the employer agreed to pay him the backpay, provided he did not expect any pay for the following weeks until this amount was paid back to him. The employer contended that he approached the claimant and other employees about some arrangement under which they would work at a lesser rate of pay until the matter was adjusted. The employer contended that when the claimant demanded the entire amount of the award, and did not agree to any procedure for returning this money to the employer, he agreed to pay the claimant the full amount of the award, and that the claimant then brought about his separation by entering certain other complaints about his past treatment by the employer. The appeals examiner found that the final discussion which terminated in the claimant's separation began, at least, because of the employer's attempt to influence the claimant to enter an agreement to violate the order of the Federal agency. The claimant was not disqualified. (Wyoming Decision No. 1726–AT–64, March 10, 1964.)

Trends In The Economy*

THE Nation's business pulse accelerated in May, and marked employment gains were accompanied by reductions in unemployment. Total employment reached an alltime high, topping the 71 million mark, while a greater-than-seasonal decline in joblessness brought the unemployment rate to the lowest level since May 1960.

Business Activities

Most significant business indicators showed uncommon vigor for this time of year, particularly steel and auto production. *Steel output* during May amounted to 10.7 million tons—a little above the April tonnage. Production for the first 5 months of 1964 totaled about 50.7 million tons, compared with 48.9 million tons for the same 1963 period. The 1964 January–May output was the highest first-5-months figure since 1960, when producers were meeting demands of users who had depleted their inventories during the 1959 steel strike. Further, orders for shipments to be made this June and July cause steel producers to believe that the usual summer slump in production will be one of the mildest on record.

The *auto industry*—in terms of both production and sales—continued in May to provide strong support for other sectors of the economy and to stimulate employment. Auto assemblies in May totaled 725,300—up from the 715,000 turned out in May a year ago, and slightly above the old May record of 724,000 set in 1955. The 753,000 units scheduled for June production would be a record for that month also and, if realized, would bring output for the first half of 1964 to 4.4 million assemblies, as compared with the previous first-half record of 4.3 million in 1955.

Retail sales in May (both seasonally adjusted and unadjusted) improved markedly from April. The seasonally adjusted level, at $21.7 billion, topped February's record $21.5 billion and was well above the $20.2 billion level in May 1963. Both durable and nondurable goods sales outlets showed gains but the most appreciable increase was in the latter sector, with the general merchandise and the apparel groups showing the largest relative gains. In durables, the 740,000 auto sales was a high for May.

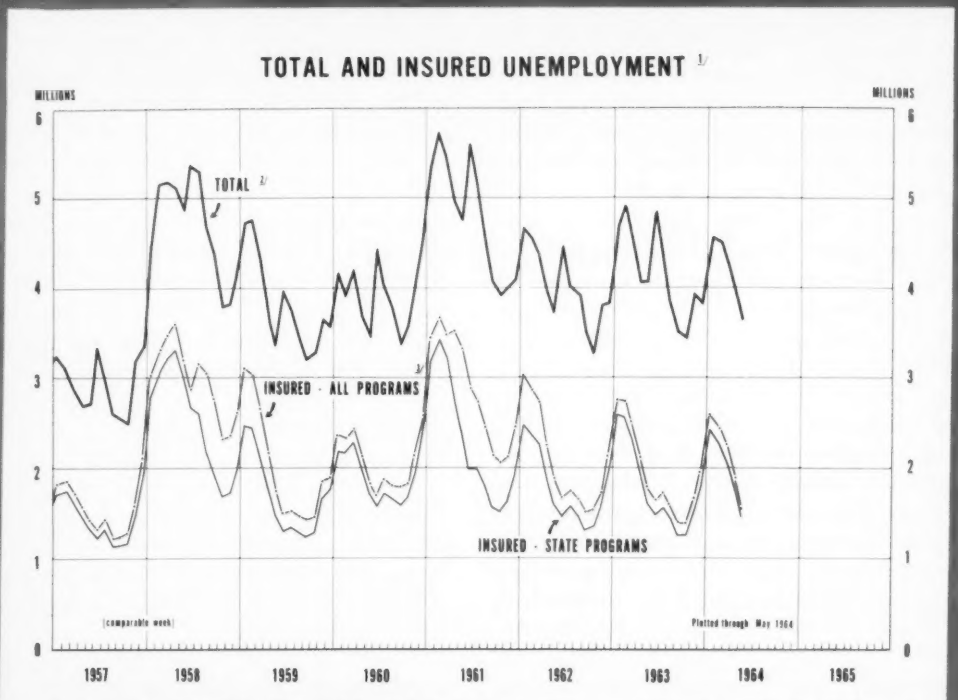
The value of *new construction put in place* during May continued at $66.7 billion—the record levels of March and April. Outlays for most major types of construction remained on a plateau during the 3-month period; only industrial building showed movement—a moderate uptrend.

Compared with a year ago, construction expenditures were up by about 10 percent. In physical volume (value adjusted for changes in costs), overall activity increased 8 percent, with the private total rising 6 percent and public works 13 percent. The largest increases were 26 percent in private industrial construction and 24 percent in sewer and water systems. The volume of private residential building, which accounts for two-fifths of all new construction, was only 4 percent higher than a year earlier.

May Employment Exceeds 71 Million

Total employment in May continued to expand more than seasonally and was up by 1.2 million from April to a new high of 71.1 million. The May volume was about 2.0 million above that of a

*Prepared in the Office of Program Reports and Research, Administration and Management Service, Bureau of Employment Security.



1/ Total unemployment includes Alaska and Hawaii beginning January 1960. Insured unemployment includes Alaska and Hawaii beginning July 1959 and Puerto Rico beginning January 1961.
2/ Source: Bureau of the Census and Bureau of Labor Statistics. Data revised for past periods to conform to definitions effective January 1957.
3/ Includes State, Veterans', Ex-servicemen's, Federal Civilian Employees', and Railroad Programs. Also includes Federal and State programs for temporary extension of benefits beginning June 1958.

year earlier; this was the largest year-to-year increase since July 1958–59.

A better-than-seasonal rise occurred between April and May in both farm and nonfarm employment. Despite the gain in *farm employment*, the May figure of 5.0 million was 171,000 under its 1963 level. *Nonfarm employment* rose about 80,000 (seasonally adjusted) between April and May. The unadjusted volume, at 66.1 million, was 2.2 million higher than a year earlier. Part-time employment for economic reasons, at 2.1 million this May, was unchanged both from the preceding month and from a year earlier.

Nonfarm payroll employment in May continued the steady uptrend (seasonally adjusted) recorded since November. The unadjusted volume, at 58.4 million, was one-half million more than in April and about 1.5 million above the May 1963 total. The over-the-month gain was better than seasonal, with nonmanufacturing industries accounting for over four-fifths of the gain. Within the nonmanufacturing sector, the construction industry showed an increase of about 160,000, somewhat less than the usual gain at this time of year. However, strikes kept about 25,000 to 30,000 construction workers off the payroll during the survey week. An employment gain of 106,000 occurred in services—an increase slightly better than seasonal—while the addition of nearly 100,000 employees in trade was about in line with seasonal expectations.

Manufacturing employment moved up by some 80,000 to 17.2 million. Virtually all industry groups showed gains, with the largest increases

in the durable goods sector. The employment uptrend of recent months persisted in the primary metals, electrical equipment, and nonelectrical machinery industries.

The major contributors to the 1.5 million nonfarm job increase from a year earlier were trade, services, and State and local government. Each of these groups registered gains of about 350,000 from May 1963. The over-the-year gain of 200,000 in manufacturing was centered in the hard goods industries, with the largest increases in nonelectrical machinery, metals, and transportation equipment. Employment in electrical equipment was down by about 20,000 over the year; this drop, along with a cutback in ordnance, reflected, to some extent, changing defense requirements.

Average weekly hours of manufacturing production workers rose seasonally by 0.2 hour to 40.7 hours—matching the previous May record established in 1955. *Overtime hours* during May rose to 3 hours, setting a new record (since 1956 when overtime hours were first separately measured) for the month. *Average hourly earnings* edged up by 1 cent between April and May to $2.53, as small increases occurred in 11 of the 21 manufacturing industry groups. As a result of the seasonal rise in the factory workweek, the increased overtime, and the small rise in average hourly earnings, the average weekly earnings of factory production workers rose to an alltime high of $102.97. This was 56 cents above the previous record set in December 1963, and $3.74 higher than the average last May.

Unemployment Rate Lowest in 4 Years

Total unemployment dropped by nearly 300,000 from April to a May volume of 3.6 million. This decline—greater than usual for the time of year—lowered the seasonally adjusted unemployment rate to 5.1 percent of the civilian labor force. In the previous 3 months, the rate had been 5.4 percent. The May rate was the lowest recorded for any month since May 1960, when it was also 5.1 percent.

All of the over-the-month decline in unemployment was among adults; teenage unemployment showed a moderate rise. The jobless rate for adult men, which has been declining in recent months, continued to edge down. The rate for men (both married and single) was 3.6 percent; and for married men, 2.6 percent. These rates were at their lowest levels since August 1957. Unemployment among adult women improved considerably for the first time in several months; their rate dropped sharply in May—from 5.4 percent to 5 percent. For teenagers, the unemployment volume came to 1.1 million, some 150,000 more than in the preceding month. Since this increase was about seasonal, their adjusted unemployment rate of nearly 16 percent was close to the April figure and about at the average level of the past year.

Included among the unemployed in May were 1.1 million persons who had been jobseeking for 15 weeks or over. This was about 150,000 fewer than in April. The jobless decline among the long-term unemployed was about seasonal, and virtually all of the reduction occurred among those looking for work for 15 to 26 weeks. The number of very long-term unemployed (27 or more weeks) showed little change from April.

Compared with May 1963, total unemployment was down by about 425,000, with most of the reduction among persons looking for full-time jobs. Long-term unemployment was lower by 200,000, with about half of the decline among those jobless for 6 or more months.

Insured unemployment under State programs averaged 1,447,000 per week in May—18 percent (300,000) less than in April. The over-the-month decline was somewhat more than seasonal, and the seasonally adjusted level of insured joblessness moved down to 1.5 million. In April, the adjusted level stood at 1.6 million, and a year earlier it was 1.7 million. Much of the over-the-month decline was attributable to continued expansion in activities related to construction and other outdoor work. In addition, new hiring occurred in food processing, trade, services, and public utilities.

With the exception of Florida and Puerto Rico, all States reported fewer insured jobless than in April; the largest reductions were in New York (31,200) and Pennsylvania (24,600). California, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, and Ohio showed considerably less insured unemployment—the reductions ranged from 15,600 to 18,600.

For the Nation as a whole, the rate of insured unemployment dropped from 4.2 percent in April to 3.4 percent in May—the lowest rate for the month since 1956. A year ago, the rate was 3.9 percent. The rate in Alaska, although falling from 13.6 percent in April to 8.7 percent, was still

the highest in the Nation. No other State reported a rate above 6 percent.

Initial claims filed under the State programs averaged 217,800 per week in May—down 12 percent from April and about 9 percent lower than a year earlier. The May decline—about seasonal—largely reflected an acceleration of activities in nonmanufacturing industries.

Unemployment Insurance Activities*

INSURED unemployment under State programs fell by 308,000, or 18 percent, between April and May to a weekly average of 1,447,000. As in the previous 3 months, continued expansion in construction and other outdoor industries was primarily responsible for the decline. New hirings in food processing, trade and services, and public utilities also contributed to the May reduction in insured joblessness. On a seasonally adjusted basis, the level of insured unemployment was 1.5 million in May, compared with 1.6 million in the preceding month and 1.7 million in May 1963.

Insured joblessness under the two Federal programs also decreased over the month. The average weekly number of jobless ex-servicemen filing claims under the UCX program during May was 46,000. This compares with 56,600 per week in the previous month and 46,700 in May 1963. Under the UCFE program, joblessness among Federal civilian employees averaged 26,600 per week—down from 32,000 in April and from 28,500 a year earlier.

For the Nation as a whole, the insured unemployment rate moved down from 4.2 percent in April to 3.4 percent in May—the lowest May rate since 1956. A year ago, the rate was 3.9 percent. Alaska's rate fell from 13.6 to 8.7 percent over the month but was still the highest in the Nation. Other rates in excess of 5 percent were 5.7 percent in Puerto Rico, 5.4 percent in California, 5.1 percent in both Maine and Washington. The May rates were below 2.5 percent in 17 States, including the large industrialized States of Illinois, Indiana, Michigan, Ohio, Texas, and Wisconsin.

*Prepared in the Office of Program Reports and Research, Administration and Management Service, Bureau of Employment Security.

Initial Claims Show Seasonal Decrease

Unemployed workers filing initial claims under State programs in May averaged 217,800 per week—down 12 percent from April and about 9 percent under the year-ago level. This month's decline, about seasonal, reflected increased activity in construction and other outdoor work as well as improvement in the trade and service industries. Under the UCX program, initial claims averaged 4,900 per week—nearly 1,100 less than in April. Unemployed civilian Federal workers (UCFE program) filed an average of 2,200 claims per week in May—some 300 under the previous month's level.

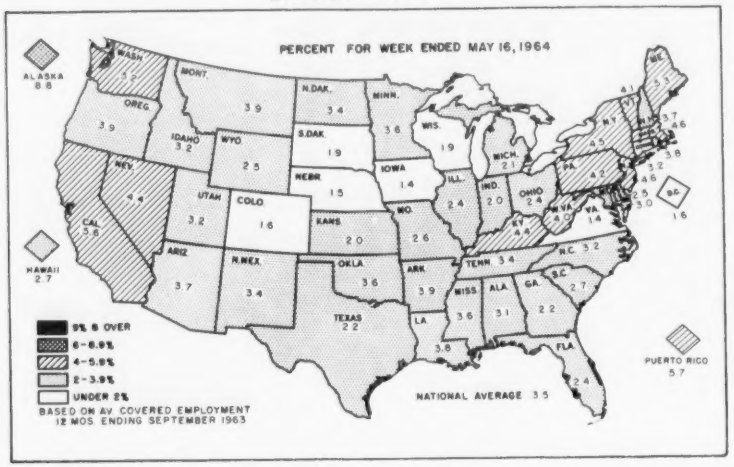
Insured Unemployment Decline Widespread

Except for a slight rise in both Florida and Puerto Rico, all of the States reported April-to-May declines in insured unemployment. The largest reductions were in New York and Pennsylvania (31,200 and 24,600, respectively). California, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, and Ohio were next, with declines ranging from 15,000 to 19,000. Smaller but relatively sharp reductions (more than one-third) occurred in eight States—Alaska, Iowa, Montana, Nebraska, North Dakota, South Dakota, Vermont, and Wyoming.

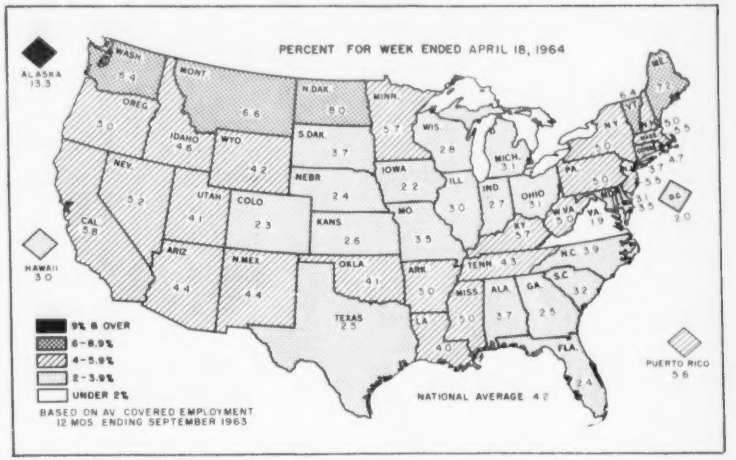
In *New York*, the 12 percent over-the-month decline in insured joblessness (slightly more than usual for this time of year) lowered the State's volume to 223,900. As in the preceding month, most of New York's decline occurred among workers from nonmanufacturing industries—primarily because of job expansion in construction, public utilities, and trade and services. Employment gains in textile, metals, and miscellaneous manu-

STATE INSURED UNEMPLOYMENT AS PERCENT OF AVERAGE COVERED EMPLOYMENT

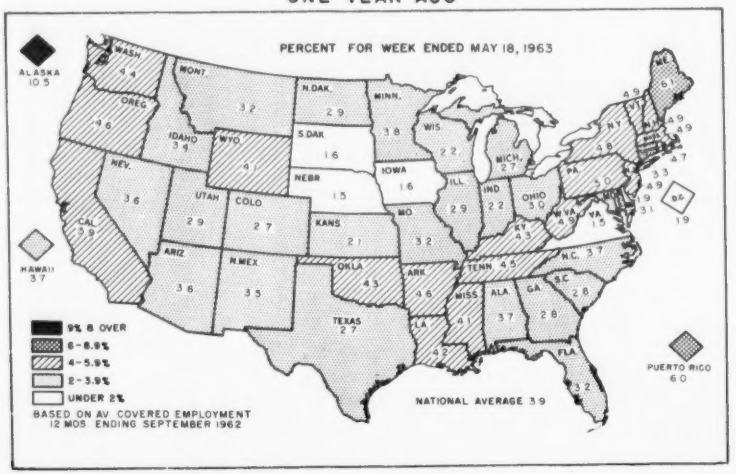
LATEST MONTH



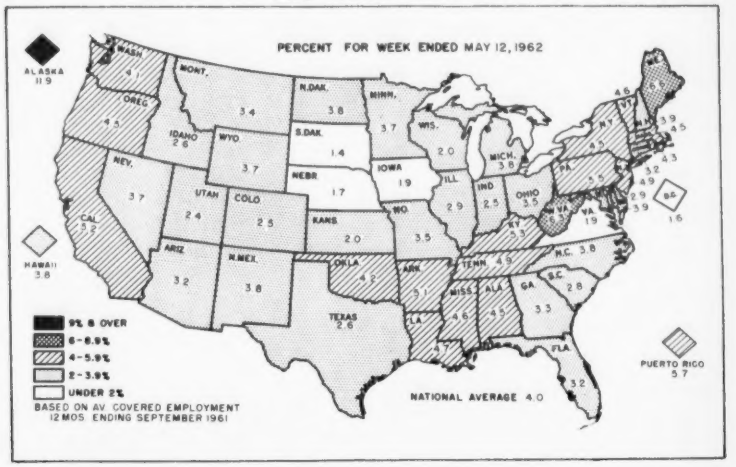
PREVIOUS MONTH



ONE YEAR AGO



TWO YEARS AGO



Week Ended	Initial Claims [1]		Insured Unemployment [1]	
	1964	1963	1964	1963
April 4	264, 900	299, 700	1, 910, 000	2, 031, 900
April 11	281, 700	282, 400	1, 856, 500	1, 967, 600
April 18	232, 300	257, 200	1, 761, 000	1, 911, 400
April 25	229, 000	261, 100	1, 682, 300	1, 830, 000
May 2	225, 900	256, 100	1, 597, 400	1, 746, 800
May 9	242, 700	246, 900	1, 534, 500	1, 679, 700
May 16	217, 100	231, 100	1, 464, 800	1, 615, 600
May 23	215, 600	243, 900	1, 406, 500	1, 549, 200
May 30	194, 100	222, 400	1, 352, 200	1, 578, 500
June 6	213, 500	248, 100		
Weekly averages				
April	246, 000	273, 400	1, 755, 400	1, 918, 000
May	217, 800	238, 700	[2] 1, 447, 000	1, 624, 100

[1] Refers to State programs. [2] Average through week ended May 30, 1964.

facturing plants were partially offset by increased joblessness among apparel and leather workers. The May 1964 volume of insured unemployment in the State was about 24,500 less than a year earlier; approximately one-half of the decline occurred among workers from manufacturing industries—primarily food processing, electrical machinery, and paper products. There was also less insured unemployment among service workers this May than last.

Insured joblessness in *Pennsylvania* totaled 121,600 this May—down by 17 percent from April. The decline was nearly twice as sharp as usual for the time of year. Over one-half of the reduction was among workers from construction although, in the manufacturing sector, there were moderate unemployment declines in the number of jobless from apparel, food processing, and primary metals. Compared with a year earlier, insured joblessness in the State was 26,600 lower; about half of the net decline was among workers from the construction, public utilities, and trade industries.

Ohio showed an over-the-month decline of 18,500 in insured unemployment—a somewhat better than seasonal drop which lowered the State's total to 56,400. With the exception of reductions of 8,200 among construction workers and 2,000 from trade, most of the changes from April were small and spread among the jobless from a large number of industries. The insured unemployment level this May was 14,300 below that of a year ago; nearly two-fifths of the improvement was due to less joblessness among workers from trade.

California's drop in insured unemployment of 18,300 (about the seasonal change expected from April to May) brought the total down to 226,700. The bulk of the decline reflected less joblessness among workers from construction, lumbering, and trade. Decreased unemployment was reported also among former electrical machinery and transportation equipment workers.

Substantial declines in insured joblessness were registered in five other States between April and May. Reductions of 16,300 in *New Jersey*, 16,200 in *Illinois*, 15,700 in *Massachusetts*, and 15,600 in both *Michigan* and *Minnesota* were due largely to the recall of workers in trade and in construction and other outdoor activities. There was also a sizable decline in joblessness among Michigan's

Activity [1]	April 1964 number or amount	Percent change from—		January-April cumulative (in thousands)	
		March 1964	April 1963	1964	1963
Initial claims [2]	1, 086, 300	−4. 3	−10. 6	5, 251	5, 753
Weeks claimed [3]	8, 084, 800	−12. 4	−8. 8	37, 379	41, 151
Insured unemployment (weekly average) [2]	1, 755, 400	−14. 4	−8. 5	2, 111	2, 337
Beneficiaries (weekly average)	1, 677, 600	−11. 1	−6. 8	1, 893	2, 095
Benefits paid [3]	$258, 046, 500	−11. 8	−6. 1	$1, 146, 851	$1, 241, 535
Claimant exhaustions	150, 200	+7. 3	−8. 9	554	621

[1] Data relate to State programs except where otherwise indicated.
[2] Includes agent State claims taken by the Virgin Islands; also includes data under Puerto Rican sugarcane program.
[3] Monthly data represent gross amounts; cumulative data represent net amount.

transportation workers, and a factor in Minnesota's drop was fewer unemployed from mining and food processing. Of these 5 States, only Illinois showed a substantial reduction in unemployment from a year earlier—down by 14,700. The bulk of this decline was attributed to fewer unemployed workers from the construction, trade, and metals industries.

Claimant Exhaustions Drop in May

During May, some 1.2 million persons dropped out of the State unemployment insurance programs. This was some 200,000 less than the figure for April and for May of last year, and was the lowest drop-out total for the month since 1957.

About 128,600 or 11 percent of those who ceased filing this May had exhausted their benefit rights. This represented a drop of 21,000, or 14 percent, from both the month earlier and year earlier totals. The remainder of the 1.2 million dropouts presumably had been recalled to work or had found new jobs, or they may have left the labor market or were disqualified for receipt of benefits.

Jobless Benefits Show Marked Decline

During April, some $281 million in benefits was paid to insured jobless workers under all regular unemployment insurance programs, compared with $315.6 million in March and $298 million a year earlier. Of the total this April, $258 million was paid out under State programs, $7.4 million under the railroad program, and an aggregate of $15.5 million under the two Federal programs (UCX and UCFE).

Under State programs, the average weekly benefit check in April for total unemployment was $36.02, a decrease of 24 cents from the March figure but 48 cents more than the April 1963 amount. The highest average weekly benefits were paid in California ($43.53), Wisconsin ($42.54), Colorado ($42.46), and Massachusetts ($40). On the other hand, Puerto Rico and four States—Maine, Mississippi, North Carolina, and West Virginia—reported weekly benefits averaging less than $25.

Of all unemployment benefit checks paid in April, about 8 percent were for partial unemployment, compared with 7 percent in March. The proportion of claimants receiving weekly checks for partial unemployment ranged from 2.4 percent in Puerto Rico to 13.5 percent in Missouri, 14 percent in both Idaho and Massachusetts, 15.3 percent in Georgia, and 18.8 percent in North Dakota. The average weekly partial check amounted to $20.78—$1.15 less than in March, and 18 cents below a year earlier.

Adjudication Process at Appeal Board Level

(Continued from page 11)

The New York law gives to the Appeal Board a continuing jurisdiction over all cases. It provides that despite the failure of a party to take a timely appeal within 20 days after the issuance of a referee's decision, the board may, on its own motion or on application duly made to it, modify or rescind such decision. Similarly, the board may, without time limitation, on its own motion or on application duly made to it, modify or rescind its own decison. These powers to reopen and reconsider cases either on the referee or board level are exercised in the discretion of the board to correct errors of judgment and do substantial justice.

In essence, the Appeal Board operates a system of administrative adjudication within the framework of a social insurance law to decide disputed claims for benefits in accordance with the spirit and intent of the law. Its policies and procedures are designed to ascertain the facts and issues and to do substantial justice, guaranteeing to all parties—claimant, employer, and Industrial Commissioner—the opportunity for a fair hearing within the guiding principles of due process of law. The board, of course, is bound by the strictures of the statute and the rulings of the courts. Within those limitations it is the policy of the board to apply a liberal construction of the statute, which in the final analysis is a social insurance law designed to provide benefits to workers unemployed through no fault of their own. The courts of New York State have repeatedly sanctioned this policy and method of operation.

In 26 years of functioning as an appellate tribunal in the field of unemployment insurance, we have witnessed the emergence and development of an adjudicative process where none existed before. Our present processes and attitudes have been hammered out on the anvil of experience. They are not and cannot remain static, but will grow with new methods and expedients so that they will reflect the American ideals of living and administrative justice.

Characteristics of the Insured Unemployed*

January-April 1964

SHORT-TERM variations in the characteristics of the insured unemployed result partly from seasonal fluctuations in various industries and occupations. Construction and the apparel industries, for example, and to a lesser extent trade and service, may take on and lay off large numbers of workers during seasonal peaks and lulls in activities. Changes in the levels of the economy have an impact also, particularly on the duration of unemployment, and on the younger, older, and unskilled workers.

Insured unemployment under State programs showed a sizable decline between mid-January and mid-February, although little change is expected at that time of year. Decreases in the 2 following months were slightly more than seasonal and brought the total number of claimants down to 1,760,000 by mid-April. The overall reduction from mid-January amounted to nearly 660,000, or 27 percent, while the expected decrease during this period is about 15 percent.

Duration of Benefits

Changes in the composition of claimant groups were not so significant in the opening months of 1964 as they were between January and April. The most marked shift in the characteristics of all claimants was in the length of time they had been filing for benefits.

During the January-April period, there are usually diverse movements in the number of short-term (1–4 weeks) and long-term (15 weeks and over) insured unemployed. This year, the number of short-term unemployed declined continuously, dropping from 1,150,000 in January to 615,000 in April. The reduction—about 535,000, or 46 percent—reflected, principally, curtailment of seasonal layoffs in construction, trade and manufacturing.

The proportion of claimants in the short-term group fell from 48 percent in January to 32 percent in March, and then rose to 35 percent in April.

Long-term insured unemployment showed an uninterrupted upswing from 278,000 in January to 435,000 in April—an increase of 158,000, or 57 percent. About 85 percent of the rise was among construction, factory, and trade workers who were laid off in early winter and had not yet found jobs. During this period, the proportion in the long-term group climbed from 11 to 25 percent of total insured unemployment.

A similar steady rise in long-term insured unemployment occurred during the first 4 months of the preceding 4 years (1960–63), with the level reaching an annual peak in April. According to the Bureau of Labor Statistics, the long-term group in *total* unemployment usually reaches an annual peak in April, but the number declined this year.

In each of the first 4 months of 1964, the characteristics of the long- and short-term unemployed differed in several respects. Persons from trade and service establishments, those with clerical-sales and service occupations, and those who were 45 years of age and over accounted for a larger share of the former than of the latter group.

The heavier incidence of long-term than of short-term unemployment for older workers was almost entirely among men. During the 4 months, the older group made up 46–53 percent of all long-term unemployed men compared with 37–40 percent of all short-term unemployed men. Among women, the older group accounted for slightly less than two-fifths (38–39 percent) of each of the two duration groups in all 4 months.

Among the factors causing significant shifts in the composition of the short- and long-term groups were variations in the amount and duration of unemployment among construction workers. From January, short-term unemployment among such workers dropped by two-thirds (about 200,000) to 100,000 in April. At the same time, the number of long-term claimants soared to 94,000—more than 3½ times that of 3 months earlier.

In January, people who had worked in construction accounted for 27 percent of all the short-term

*Prepared in the Division of Reports Analysis, Office of Program Development and Legislation, Unemployment Insurance Service, Bureau of Employment Security.

insured unemployed compared with 9 percent of the long-term group. In succeeding months these proportions moved diversely and in April were 16 and 22 percent, respectively, for the two groups.

Similarly, there were shifts in the relative importance of factory workers in the two duration groups. They comprised 43 percent of the short-term and 48 percent of the long-term unemployed in January. By March, the opposite situation existed although the number of factory workers in the short-term group declined while that in the long-term group increased. This reversal reflected, in large part, changes in the duration of insured unemployment among construction workers rather than among those who had worked in factories. By mid-April, factory workers made up 52 and 40 percent, respectively, of the two duration groups.

People with skilled, semiskilled, and unskilled occupations were much more prevalent among the short-term than the long-term claimants in January. This situation continued for semiskilled workers during each of the following 3 months, but changed for the skilled and unskilled. In January, skilled workers accounted for 20 percent of the short-term group compared with 14 percent of the long-term group. By April, they made up nearly equal proportions of the two groups—18 and 17 percent, respectively. Unskilled workers comprised 31 percent of the short-term and 24 percent of the long-term claimants in January, against 28 and 30 percent, respectively, in April.

Sex of Claimants

The proportion that men comprised of all claimants hovered around 68 percent in the first 3 months of 1964 and then dropped to 61 percent in April. Insured unemployment declined from January to March at the same rate—13 percent—for men as for women, although men declined in number by 205,000 and women, by 108,000. But virtually all of a further decrease in April was among men. Male claimant volume fell by 332,000 (24 percent) over the month to 1,070,000, while insured unemployment of women edged down only 11,000 (less than 2 percent) to 690,000.

Hiring in contract construction was the principal factor contributing to the sharp March-April drop in insured unemployment of men. Other factors included employment increases in durable goods manufacturing, trade, and service industries.

Age of Claimants

Very little change occurred during the January-April period in the composition of the insured unemployed when grouped by age. The number of claimants in all age groups showed decreases. However, the percentage reductions in March and April were slightly larger among those under 45 years of age than among older persons. As a result, the proportion of claimants under age 45 edged down from 61 percent in January and February to 59 percent in April. Persons 55 years of age and over accounted for 18 percent of all claimants in January and 20 percent in April.

Industry Attachment

About three-fourths of the January–April decline in insured unemployment was among claimants from construction and manufacturing. The biggest drop—about 272,000, or 45 percent—was among construction workers, and over three-fifths of this reduction took place between March and

SELECTED CHARACTERISTICS OF CLAIMANTS, JANUARY–APRIL 1963 AND 1964

Characteristic	Percent of total under State programs							
	1964				1963			
	April	March	February	January	April	March	February	January
Manufacturing	45	41	40	43	45	40	40	45
Trade and services	26	25	25	23	25	25	24	22
Construction	19	24	25	25	19	25	26	22
Skilled	17	19	19	19	18	20	20	18
Semiskilled and unskilled	55	56	56	58	55	55	57	59
Under 45 years of age	59	60	61	61	60	62	62	62
Men	61	67	68	67	64	69	70	67
Short-term unemployed (1–4 weeks)	35	32	36	48	35	30	37	47
Long-term unemployed (15 weeks and over)	25	19	14	11	22	19	14	12

April. The rate of insured unemployment for construction workers fell from 22 percent in January to 12 percent in April.

Factory workers on the insured unemployed rolls totaled 800,000 in April—down 227,000, or 22 percent, from January. Their rate of insured unemployment declined steady—from 6.1 percent in January to 4.7 percent in April.

Claimants from nondurable goods industries accounted for 53 percent of the factory unemployed in January. The proportion fell to 49 percent in February, then moved up to 54 percent in April. These fluctuations largely reflected changes in the prevalence of apparel workers among claimants from factories. Apparel workers made up 20 percent of the factory unemployed in January, 14 percent in February, and 18 percent in April.

Persons who had worked in food and kindred products plants also were prevalent among the factory unemployed during the January–April period. They accounted for 12 percent of all claimants from factories in January, 15 percent in February and March, and 14 percent in April. During the first 4 months of 1964, apparel and food workers taken together comprised 29 to 33 percent of all claimants from factories.

Trade establishments ranked third among industry divisions in the volume of insured unemployment during the first 4 months of this year. The number of claimants from trade showed a small increase—18,000, or 5 percent, to 365,000—in February. Employment gains during March and April helped reduce this number to some 300,000 in April—about 14 percent less than in January. Primarily because of sharper decreases among claimants from construction and factories than among those from trade, the proportion of trade workers among the insured unemployed rose from 14 percent in January to 17 percent in April. From 3.2 and 3.3 percent in January and February, their rate of insured unemployment was down to 2.7 percent in April.

Occupation of Claimants

When grouped by major occupation, the biggest January–April drops in insured unemployment occurred among claimants who had worked in unskilled (238,000), semiskilled (197,000), and skilled (150,000) occupations. The insured unemployed in these three groups made up 77 percent of all claimants in January, but accounted for 89 percent of the total January–April decline.

In January and February, 31 percent of all claimants were unskilled and 19 percent were skilled workers. By April, these proportions were down to 29 and 17 percent, respectively, reflecting the sharp reduction in construction unemployment. The proportion of claimants who had semiskilled occupations moved down from 27 to 25 percent between January and February, and then crept up to 26 percent in April.

Although insured unemployment of persons with clerical and sales occupations decreased in March and April, the proportion of claimants in this occupational group rose steadily between January and April—from 12 percent to 15 percent.

1963–64 Comparison

Beginning in July 1963, State insured unemployment has been continuously below year-earlier levels. During the first 4 months of 1964, based on midmonth data, the volume has averaged about 220,000, or 6 percent, less than in the same 1963 period. The April volume was 207,000, or 10 percent, below that in mid-April 1963.

Despite the sizable decrease, the characteristics of claimants, by broad categories, during the first 4 months of this year were generally similar to those of claimants during the same 1963 period. One exception has been the decline in the proportion of men among the insured unemployed—a reduction which has been evident for some time. Except in January, the proportion of men has been about 2 to 4 percentage points less than a year earlier for the 12 months ending this April.

Men accounted for the over-the-year reductions during the last half of 1963 and for most of the year-to-year decreases during the first 4 months of 1964. In April 1964, insured unemployment of men was 181,000 (14 percent) less than a year ago, while that of women was down only 25,000 (4 percent). As a result of this sharper decline among men than among women, men comprised 61 percent of the insured unemployed this April compared with 64 percent in April 1963.

Total unemployment of persons 20 years of age and over, according to the Bureau of Labor Statistics, has shown diverse movements for men and women from early 1963 to the first quarter of 1964. Unemployment of adult men dropped rapidly while that of adult women moved up slightly. In April of this year, men made up 60 percent of *total* adult unemployment compared with 64 percent a year earlier.

The long-term insured unemployed (15 weeks and over) accounted for about the same proportion of all claimants during each of the first 3 months of this year as in the corresponding months of 1963. However, the proportion of long-term claimants was 25 percent this April compared with 22 percent a year earlier, although the level of long-term insured unemployment was virtually unchanged over the year. The over-the-year rise in this proportion resulted from a sizable decline in the number who had been claiming unemployment benefits for less than 15 weeks.

Grouped by the various characteristic categories, there were small over-the-year changes in the number of long-term unemployed—increases in some groups, declines in others. But the proportion of long-term unemployed among total claimants was higher this April than a year ago in all major industry, occupation, sex, and age categories. In most groupings, the increase was between 2 and 3 percentage points. Among men, the rise in the proportion of long-term unemployed was about 3 percentage points; among women, it was about 2 percentage points. In several industry and occupational groupings, and among persons age 45 and over, the increase was about 3 percentage points.

Court Review of Administrative Decisions

(Continued from page 17)

administrative review. They have the power to strike down (and this is of great importance to the administrator), but they do not have the power to reconstruct. For example, a court can declare an act of the State legislature or of the Congress unconstitutional even though Congress or the legislature has prepared it with great care and given study to the public policy underlying its enactment. But while the court can strike it down and declare it unconstitutional, and thus unenforceable, it has no corresponding duty or power to produce a workable substitute. Hence, the judicial power as affecting State or Federal Government action must be seen as mainly negative.

That is true also about administrative determinations. We can annul a determination which we think to be improper or wrong as a matter of law, but we do not and cannot substitute an affirmative policy in place of the thing that we annul. It is very important to realize the limitation of judicial action in that respect.

A court is not a government; it is not answerable to a constituency as are the executive and the legislature. It has no implementing power; it has no secretariat or specialized advisers to help it. It has no adequate means of carrying out any affirmative policy and if it had such power it could not perform it well. Further, if it had the power and performed it, then it would not be a judicial agency; it would be something else. So, both in the review of constitutionality of statutes and in the review of administrative determinations this essentially negative feature in the nature of the judicial process must be kept in mind.

Effects of Court Decisions

The court, however, can do certain important things of large affirmative value to the community. It can eliminate grossly unfair determinations; it can by a process of decision eliminate arbitrary action; it can encourage a spirit of impartiality in the administrator; and it can slow down any experimentation which may be moving too rapidly. It can have an influence on administrative adjudication which, taken altogether, is for the good. While we sometimes think that adverse judicial determinations are catastrophic to the process, we have survived many such catastrophes in the course of our history and, on the whole, the judicial review is perhaps as good as any other way available for supervising administrative determinations and for keeping them within reasonable areas.

Beyond all this, the judges in their judicial work have succeeded in establishing a standard of impartiality, and this is a significant achievement. Their impartiality is not merely on the surface: Judges do not just *seem* to be impartial; they *are* impartial. There are a few exceptions, but they are so rare as to be aberrations.

True impartiality as an actuality and not a theory is as rare in our times as in the past. A judge brings an impartial mind to his job because of both his professional training and the expectation of members of his profession. This fresh insight of the impartial mind may be, in the end, the most valuable part of the contribution which "judicial review" can make to sound administrative adjudication.

Selected Unemployment Insurance Statistics, State Programs, April 1964

State	Initial claims received 1/ 2/	Weeks claimed 2/	Number of insured unemployed (weekly average) 3/	Number of beneficiaries (weekly average) 3/	Average weekly payments for total unemployment	Number of final payments 4/	Benefits paid 5/	12 months ending April 30 (in thousands) Benefits paid 6/	12 months ending April 30 (in thousands) Collections and interest	Funds available April 30, 1964 7/ (in thousands)
Total, 52 States	8/1,086,341	8/8,084,757	8/1,755,395	1,677,568	$36.02	150,205	$258,046,499	$26,799,84	$3,243,189	$6,274,149
Alabama	12,310	90,399	19,764	16,038	25.61	1,782	1,772,448	22,158	4,197	68,005
Alaska	2,611	21,064	4,584	4,266	37.61	319	749,981	6,140	7,772	10/ 6,451
Arizona	7,888	53,473	11,594	10,398	32.10	806	1,454,415	12,624	15,043	54,147
Arkansas	10,074	70,633	15,461	11,832	26.67	1,477	1,327,375	12,686	13,145	27,510
California	144,914	1,105,802	245,058	242,109	43.53	18,620	6,538,473	9/ 491,009	519,019	863,170
Colorado	6,682	40,487	8,517	7,872	42.46	903	1,423,414	16,055	17,957	48,262
Connecticut	19,168	138,652	29,306	26,123	38.42	2,935	4,675,119	47,461	56,976	165,645
Delaware	2,429	18,529	4,151	4,656	38.63	588	765,489	7,459	10,617	15,479
Dist. of Col.	2,541	25,671	5,592	5,834	38.41	391	980,279	10,814	9,245	61,672
Florida	21,735	102,835	23,322	14,999	27.95	2,140	1,799,456	26,764	45,308	139,674
Georgia	13,050	90,188	20,941	15,445	28.30	2,548	1,766,483	21,838	35,901	156,709
Hawaii	2,526	21,760	5,212	5,275	38.92	350	852,641	9,630	10,312	17,043
Idaho	2,707	19,544	6,028	5,818	39.46	1,232	957,626	9/ 8,819	9,162	24,454
Illinois	41,480	358,977	76,316	78,505	38.15	8,679	12,862,086	9/ 135,906	182,408	396,764
Indiana	21,908	133,251	28,786	27,292	31.55	4,262	3,657,126	37,026	51,135	147,095
Iowa	4,819	48,131	9,916	9,724	30.34	1,418	1,237,756	10,870	14,223	105,218
Kansas	4,932	43,980	9,279	10,034	37.25	1,040	1,607,966	16,640	15,711	58,192
Kentucky	13,352	115,783	25,918	21,990	33.45	1,547	3,061,686	25,316	30,718	101,625
Louisiana	13,501	102,034	22,662	21,860	30.31	2,345	2,826,589	27,703	37,732	103,977
Maine	6,885	60,796	13,378	10,753	23.67	233	1,084,492	10,453	13,130	26,476
Maryland	20,651	126,511	26,994	25,908	31.85	1,717	3,513,310	36,427	67,869	117,319
Massachusetts	50,151	387,915	84,660	81,700	40.00	7,516	13,430,187	139,952	132,876	161,186
Michigan	37,056	261,698	53,093	50,415	36.95	6,362	8,030,464	83,369	195,908	10/ 57,604
Minnesota	12,699	194,478	40,482	39,351	30.22	2,218	5,132,499	39,059	34,181	18,368
Mississippi	8,710	62,835	13,813	11,603	24.50	1,118	1,214,157	12,752	20,596	40,039
Missouri	26,658	159,078	34,576	28,636	33.39	2,592	3,899,667	39,812	49,620	210,018
Montana	7,313	37,651	7,714	7,425	31.58	736	1,033,235	7,192	6,022	18,588
Nebraska	2,841	34,229	6,313	7,715	33.99	1,061	1,132,884	9,223	10,152	37,729
Nevada	4,344	26,408	5,821	6,050	39.53	584	1,032,584	8,658	12,544	25,089
New Hampshire	5,709	34,658	7,701	5,744	31.44	95	754,186	8,218	7,712	22,870
New Jersey	49,306	413,323	88,575	92,375	39.68	10,664	15,607,211	162,307	146,632	256,229
New Mexico	4,144	32,567	6,808	5,889	29.39	325	734,647	8,283	7,489	33,950
New York	179,308	1,174,295	255,075	260,571	38.84	14,614	42,141,980	431,160	527,658	1,084,536
North Carolina	31,378	177,545	38,139	38,918	22.65	2,978	3,734,545	37,675	49,813	197,956
North Dakota	1,591	27,680	5,404	5,213	38.30	344	874,138	5,466	5,313	5,412
Ohio	42,246	352,185	74,981	71,128	39.67	5,954	12,160,647	132,723	160,082	95,730
Oklahoma	9,005	71,928	15,965	13,454	26.31	1,272	1,592,163	16,725	20,978	39,425
Oregon	13,975	98,815	21,325	18,722	34.92	1,091	2,814,575	25,212	41,534	70,199
Pennsylvania	92,301	667,230	146,141	139,668	38.53	7,285	19,006,792	216,586	261,729	10/ 100,345
Puerto Rico	8/7,690	8/61,167	8/14,591	8,315	14.13	1,942	533,551	9/ 11,263	18,379	48,818
Rhode Island	10,019	52,633	11,270	10,707	31.19	1,179	1,399,162	16,530	21,228	39,355
South Carolina	9,587	65,477	14,353	12,540	27.05	1,709	1,457,326	16,043	20,365	79,611
South Dakota	944	14,625	3,093	4,157	31.23	656	553,871	3,579	3,073	14,104
Tennessee	15,312	113,135	30,857	25,483	27.09	2,745	2,948,070	30,338	39,767	70,840
Texas	27,436	213,171	46,998	40,418	29.14	6,727	5,069,104	62,951	57,057	218,666
Utah	3,295	40,021	8,431	8,916	37.34	998	1,433,690	11,229	11,290	38,569
Vermont	2,437	22,849	4,840	5,101	34.52	288	854,778	9/ 6,678	4,175	5,856
Virginia	9,921	64,709	13,914	12,420	27.41	2,341	1,441,707	14,080	30,396	123,013
Washington	24,018	188,653	40,755	41,353	33.68	4,936	6,040,495	62,633	59,264	190,291
West Virginia	8,524	80,793	17,053	16,294	34.72	1,029	1,734,779	16,066	28,695	58,976
Wisconsin	11,720	125,408	26,001	25,899	42.54	11/ 3,366	4,734,065	46,676	48,296	193,970
Wyoming	1,154	11,917	2,474	2,351	39.66	146	392,730	3,750	5,585	4,919

1/ Excludes transitional claims.
2/ Total includes claims taken as agent State by the Virgin Islands.
3/ Weekly data are adjusted for split weeks in the month on the basis of 5-day work week.
4/ A final payment is the payment for the last week of compensable unemployment in a benefit year, and indicates the exhaustion of benefit rights by a claimant for that benefit year. Because of the time lapse between the actual week in which the unemployment occurs and the date on which final payment is made the monthly total includes some claimants who exhausted their rights in the preceding month but will not receive their final payment in the reported month, and excludes some claimants who exhausted their rights in the reported month but will not receive their final payments until the succeeding month. Workers who exhaust their rights may be entitled to additional benefits when the following benefit year begins. The number of exhaustions is not indicative of the number who are still unemployed as some will have obtained employment and others may have withdrawn from the labor force.
5/ Unadjusted for voided benefit checks and transfers under interstate combined-wage plan. Includes $1,178,699 in payments under extended duration provisions of State laws in three States: California, $1,245,428; Puerto Rico, $21,010 and Vermont, $112,261.
6/ Adjusted for voided benefit checks and transfers under interstate combined-wage plan.
7/ Includes amount credited to States' accounts in the unemployment trust fund, less withdrawals by the States, under the provisions of the Employment Security Administrative Financing Act of 1954.
8/ Includes data under the program for Puerto Rican sugarcane workers.
9/ Includes payments made under State temporary extended benefit provisions.
10/ Funds available reflect an advance from Federal account in Unemployment Insurance Trust Fund to: Alaska, $2,630,000 in January 1957, $2,635,000 in February 1958, $3,000,000 in July 1958, and $500,000 in January 1960; Michigan $113,000 in September 1958; Pennsylvania $96,440,000 in April 1959, $1,504,000 in May 1960, $4,056,000 in July 1960, $7,400,000 in March 1961, $1,800,000 in May 1961, and $800,000 in August 1961.
11/ Represents data on a "per employer" basis and is not strictly comparable.

Selected Data on Unemployment Compensation for Federal Civilian Employees and Ex-Servicemen,[1] April 1964

Program	Initial claims received	Weeks claimed	Number of insured unemployed (weekly average)	Number of beneficiaries (weekly average)	Average weekly payments for total unemployment	Number of final payments	Benefits paid
Total, Federal programs	38,261	407,868	88,691	99,675	----	8,209	$15,772,054*
UCFE program 1/	11,419	147,555	31,962	35,781	2/ $36.61	3/	5,829,062
UCX program 1/	26,842	260,313	56,639	63,894	2/ 34.28	3/	9,654,106

1/ The programs for Federal civilian employees (UCFE) and for ex-servicemen (UCX), established under title XV of the Social Security Act, became effective January 1, 1955 and October 27, 1958, respectively. UCFE excludes data for persons filing to supplement benefits under State programs, and UCX data exclude information on claims filed jointly with other programs. 2/ Based on all unemployment. 3/ Data cannot be shown separately.
* Includes total amount paid from title XV funds. Includes $84,366 in payments under extended duration provisions of title XV in two States: California, $79,770; Vermont $4,596. The amounts shown under the separate programs will not add to total due to the exclusion of payments made jointly with State programs.

INCOME-MAINTENANCE PROGRAM OPERATIONS

All Programs

	1964		1963	
	April	March	April	March
Total Public Income-Maintenance Payments (millions)	$3,014	$3,035	$2,880	$2,899
Old-age, survivors, and disability insurance	1,354	1,348	1,284	1,272
Railroad and public employee retirement	1/429	1/428	1/395	1/391
Unemployment insurance, temporary disability insurance, workmen's compensation, training benefits (ARA and MDTA)	2/466	2/502	2/475	2/516
Veterans' compensation and pension programs	338	332	326	323
Public assistance	428	425	399	396
Old-Age, Survivors, and Disability Insurance				
Total beneficiaries (thousands)	19,374	19,285	18,431	18,353
Retired workers	10,450	10,409	9,951	9,911
Survivors and dependents	8,075	8,034	7,705	7,674
Disabled workers	850	842	774	768
Total monthly benefits (millions)	3/$1,290	3/$1,283	3/$1,214	3/$1,208
Retired workers	807	804	762	759
Survivors and dependents	405	403	382	380
Disabled workers	77	76	70	69
Public Assistance				
Total recipients (thousands)	8,060	8,071	7,825	7,886
Federally aided programs	7,217	7,157	6,889	6,870
Aid to families with dependent children	3,188	3,149	2,996	2,986
Total recipients	4,262	4,207	4,004	3,993
Old-age assistance	2,187	2,189	2,211	2,214
Other federally aided programs	768	761	674	663
General assistance: Cases	359	374	369	386
Recipients	843	914	936	1,016
Total payments (millions)	4/$428	4/$425	4/$399	4/$396
Federally aided programs	394	390	365	360
General assistance	24	25	25	26

Operations Under Area Redevelopment and Manpower Development and Training Acts

	Total		ARA		MDTA	
	May 1964	April 1964	May 1964	April 1964	May 1964	April 1964
Total paid trainees	23,410	25,988	2,504	2,504	20,906	23,484
Youths	5,799	3,138	2,504	NA	3,295	3,138
Total net benefits	$2,841,838	$3,297,075	$217,369	$229,919	$2,624,469	$3,067,156
Training allowances	2,112,500	2,478,769	217,369	229,919	1,895,131	2,248,850
Youth allowances	228,188	217,334	NA	NA	228,188	217,334
Subsistence allowances	381,993	468,518	NA	NA	381,993	468,518
Transportation allowances	119,157	132,454	NA	NA	119,157	132,454

Temporary Disability Insurance Activities Under State and Railroad Programs

	First claims received		Weeks compensated		Benefits paid		Benefits paid	
	May 1964	April 1964	May 1964	April 1964	May 1964	April 1964	May 1963	April 1963
California								
State plan								
Basic benefits	47,047	50,649	273,065	295,129	$14,363,284	$15,574,642	$14,477,110	$14,667,644
Additional hospital benefits	5/29,781	5/31,069	6/211,641	6/221,909	2,539,692	2,662,908	2,599,224	2,614,164
Private plan	2,890	3,484	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)
New Jersey								
State plan	7,283	7,551	49,496	57,028	1,872,885	2,161,414	2,340,875	2,220,313
Private plan	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)
New York	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)	(7/)
Rhode Island	2,836	2,867	25,430	27,263	854,669	917,663	931,672	943,224
Railroad								
Sickness	8,717	9,912	8/82,308	9/94,590	2,350,569	2,821,646	3,007,785	3,573,076
Maternity	178	150	8/2,262	9/2,410	158,418	165,500	175,679	177,434

1/ Data not comparable with earlier reports. Effective January 1964, Federal noncontributory and State and local retirement systems previously included with the data for unemployment insurance, temporary disability insurance, and workmen's compensation are included with railroad and public employees retirement systems (revised figures also shown for March and April 1963).

2/ Data for temporary disability insurance and workmen's compensation include estimated payments made by private insurers and self-insurers in accordance with law.

3/ Current payment status, excludes lump sum and retroactive payments and adjustments for over and under payments.

4/ Total payments exceeds sum of items because of inclusion of vendor payments, not shown in detail.

5/ Represents the number of payments made.

6/ Days for which additional hospital benefits were paid.

7/ Data not available.

8/ Estimated from data "benefit periods" compensated which number 41,154 for sickness and 1,131 for maternity.

9/ Estimated from data "benefit periods" compensated which number 47,295 for sickness and 1,205 for maternity.

NA--Not applicable.

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